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L E T T E R S

T O

The Directors of the East-India Company,

A N D

The Right Hon. Lord AMHERST,

F R O M

A N D R E W S T U A R T, Esq. *K*

In the Years 1777, 1778, and 1781;

ON THE SUBJECT OF CERTAIN EVENTS IN INDIA,

A N D O F

GEN. STUART'S CONDUCT IN HIS MAJESTY'S SERVICE, AND
IN THAT OF THE EAST-INDIA COMPANY.

L E T T E R S

The Directors of the East-India Company,



ANDREW STUART, Esq.

Private Secretary to the Directors

ON THE SUBJECT OF CERTAIN EVENTS IN INDIA,

AND OF

GEN. STUART'S CONDUCT IN HIS MAJESTY'S SERVICE, AND
IN THAT OF THE EAST-INDIA COMPANY.

A
L E T T E R
T O

The Chairman of the East-India Company,

FROM

ANDREW STUART, Esq.

[April 14, 1777.]

I have the honor to acknowledge the receipt of your letter of the 15th inst. in relation to the purchase of the stock of the Virginia Company. The same has been forwarded to the proper authorities for their consideration. I am, Sir, very respectfully,
Your obedient servant,
J. M. STUART, Esq.

J. M. STUART, Esq.

17th Nov 1851

S I R,

IT may possibly appear to you, or to some of the Gentlemen in the Direction of the East India Company's affairs, somewhat singular, that during your late important discussions, where the propriety of my brother's conduct was directly or indirectly brought in question, there should have been no symptoms of my taking any interest in these matters; nor any attempt made to prevent or remove prejudices, with regard to the part Colonel Stuart had acted, during the late unhappy convulsions at Madras.

It is on that account, that I now take the liberty of addressing to you this letter, to explain the reason of my silence hitherto; and at the same time to communicate to you without reserve, the state of my mind with regard to the reported transactions at Madras, and the proceedings which I am informed these reports have recently given rise to in this country.

From the 18th of March, to the 5th of this month, I was not in London, having gone to Scotland, where I was necessarily detained, attending my re-election, during the very period which I now understand was so much occupied here by disputes, and proceedings relative to the Madras business.

From this you will perceive, that supposing me to have been disposed to take a part in these disputes, my necessary absence from London had deprived me of the opportunity.

But I may venture to go one step further, by assuring you, that even if I had been upon the spot, the only part I should have taken during

that period of imperfect information, would have been to request the Directors, and Proprietors, to suspend their opinions of my brother's conduct, until there should be an opportunity of investigating, and learning with certainty, what that conduct, and the motives of it, had truly been.

Even at this hour I do not think myself sufficiently informed in these respects, to be able to form a decisive opinion; it is my intention to collect the best information that can be obtained of the real transactions, and after examining to the best of my judgment, the accounts given by the contending parties, I shall then have no difficulty in declaring to you sincerely, the point of view in which these matters present themselves to me.—I have not the presumption, however, to suppose that any judgment that may happen to be formed by me on this subject, is to have influence in forming or altering the opinions of others.

It may easily be supposed, that, in this inquiry, I wish exceedingly, that I may have reason to think that my brother has acted properly, and in such a manner as may entitle him to the approbation of the Public. So conscious am I of the earnestness of this wish, that I shall endeavour, as much as possible, to be upon my guard against its misleading my judgment; nor shall I willingly suffer myself to be engaged either in any precipitate unauthorised defence or approbation of my brother's conduct, or in any attack upon the conduct of others with whom he has happened to differ upon this occasion.

I will fairly own to you, that the arresting and confining the person of a Governor, appears to me a strong measure, and such as requires very powerful reasons to justify it.

I shall further acknowledge, that if the accounts given by one party of the mode in which this was accomplished, and of the circumstances attending it, be strictly true, there is something in it which conveys to me a very disagreeable impression; nor shall I attempt to reconcile to the minds of others, what I find so difficult to reconcile to my own.

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If the facts as stated could be supposed to be true, and that the only defence for the mode in which the arrest of Lord Pigot's person was conducted and completed, shall be, that there was no other possible method of avoiding bloodshed and civil war, the fate of the person unfortunately obliged to make the option in such an alternative, must have been very disagreeable and distressing; for I can hardly suppose a man so constituted, as not to feel strong reluctance and aversion to employ the methods ascribed by one party to Colonel Stuart, in the accomplishment of Lord Pigot's arrest.

It is so improbable, that these things should have happened in the manner they are related, and if strong measures have been resorted to at Madras, the materials for judging of the necessity of them are at present so incomplete, that justice and candour require us to suspend our judgments, with regard to the conduct of the principal actors, until that conduct, and the motives of it, are properly investigated, and that all parties shall have an opportunity of being heard.

Great pains, I understand, have been taken in various quarters, not only to excite the greatest degree of prejudice against my brother's conduct, but to hurry the Directors and Proprietors into precipitate opinions and resolutions, which are of such a nature, as infer both judgment and condemnation before trial.

I am therefore under the necessity of submitting to your consideration some circumstances, entitled to weight with the Directors and Proprietors, for disposing them to suspend such opinions or resolutions, until my brother's conduct shall be fully and fairly examined; and I beg I may be understood to state them with that view only.

In the first place, it is a certain fact, that the dissension and animosity between Lord Pigot and the majority of the Council at Madras, took rise long before my brother arrived in India. He did not arrive there till the month of May last, and I have letters in my possession from him soon after his arrival, as well as letters from others, mentioning
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the distracted state in which he found matters there, on account of the disputes and dissensions between Lord Pigot and the Council.

These same letters mention that my brother had hitherto abstained from taking part with either side in these disputes, and that it was his intention to avoid mixing in faction, and to apply himself to his own business in the military line.

The advices received by the Company from India some months ago, must have confirmed these facts, and have satisfied you that the origin of the dissensions at Madras was long before my brother's arrival in that part of the world.

Secondly, I have particular occasion to know that when my brother left this country, it was his wish and intention to be on the best terms with Lord Pigot, and for this purpose he had obtained strong letters of recommendation from Lord Pigot's particular friends in this country; Admiral Pigot was, as I understood from my brother, very obliging on that occasion, in supplying him with letters to promote the good correspondence between Lord Pigot and him.

It must also be very evident to every person acquainted even with the general account that has been circulated of the transactions at Madras, that so far as interest is concerned, it appeared to be Colonel Stuart's interest to have remained on the best terms with Lord Pigot; and as his Lordship did, upon two different occasions, in the months of July and August last, offer him the command in chief of all the forces in that country, he, by declining these offers, and obeying the orders of the majority of the council, deprived himself of a situation and advantages much more considerable than any that could be bestowed on him by the party whose orders he obeyed;—for the consequence of the part he has acted, is that he remains second in command without a seat in Council, and without any advantages or emoluments comparable to those enjoyed by the commander in chief; whereas, if he had espoused Lord Pigot's interest, the immediate command in chief of the army devolved upon him

him with a seat in Council, and all the privileges and advantages belonging to the first military situation; his senior officer, Sir Robert Fletcher, then commander in chief, being at that time under arrest to be tried by a court-martial, there was little chance of Colonel Stuart's not enjoying the command of the army during Lord Pigot's government.

From these circumstances it seems probable, that in the part my brother has acted, he has not been guided by self-interest. There may have been an error of judgment in the opinion formed by him of Lord Pigot's conduct, but there is great reason to presume, that the alteration from his original dispositions with regard to his Lordship, and the part he chose, of obeying the orders of the majority of the Council, arose not from interested views, but from an opinion that Lord Pigot was acting illegally, and that the majority of the Council was the legal government which he was bound to obey.—Here I beg leave to be understood, that it is by no means my intention to assert, either that Lord Pigot had acted illegally, or that the legal government was vested in the majority of the Council; I only mean to say, that it seems to me probable, my brother proceeded on these ideas; but whether they were well or ill founded, I do not pretend to judge.

Thirdly, The strong and marked approbation of the Governor-general, and Supreme Council in Bengal, seems of itself sufficient to prevent any opinions or resolutions unfavourable to Colonel Stuart, at least until matters are further examined.

In the letter of 15th September from General Clavering to Colonel Stuart, there is not only an approbation of his conduct, but, in terms the most flattering to him, the General gives him applause for the honour of conducting *so difficult and dangerous a business*, and for the *spirit and magnanimity* with which he had executed it.—When these distinguished marks of approbation are bestowed by General Clavering, whose sense of honour, and whose sentiments of propriety, and delicacy

of conduct, as an officer and a gentleman, are so well known and established, it is but fair and reasonable to presume, until the contrary is proved, that Colonel Stuart's conduct had not only appeared to the Supreme Council at Bengal, right and proper in itself, but that in the manner of carrying that order of the Council into execution, and in the mode of arresting Lord Pigot's person, there had been nothing unhand-some, improper, or unsuitable to the character of a gentleman and an officer.

It appears from General Clavering's letter of the 15th, and from Governor Hastings' of the 18th September, that both of them give great credit to Colonel Stuart, for the mode in which Lord Pigot's arrest had been accomplished, "*without bloodshed, without tumult, and without the violation of one legal form.*" — These are the words of Governor Hastings' letter to Mr. Stratton, wherein he talks with a degree of admiration of this, as a thing almost without example; and from General Clavering's letter it appears, that he considered a war in the Carnatic as inevitable, if this last decisive step had not been taken. He says to Colonel Stuart, "*Whatever advantages, therefore, arise from the preservation of so faithful an ally (the Nabob of Arcot), or to the Company's commerce, by the peace of the Carnatic being preserved, the Company are indebted chiefly to you for them.*"

Such are the expressions made use of by General Clavering in his letter to my brother, and by Governor Hastings in his letter to Mr. Stratton, and such the light in which this matter presented itself to the Supreme Council at Bengal, after hearing the assertions of both parties.

It is not with a view to acquire any positive opinion at present in favour of my brother's conduct, that I have selected from a number of other circumstances, which might have been stated in his favour, those which are now submitted to your consideration, but merely to make use of them as reasons for a suspension of any unfavourable judgment or proceedings to his prejudice, until the matter is more fully examined.

I do

I do not wish to enter at all into the merits of the question between Lord Pigot and his council, nor to assert or insinuate any thing to his Lordship's prejudice. It is well known, that it was my earnest recommendation to my brother at leaving this country, to cultivate a good understanding with his Lordship, whom I had always been accustomed to consider as a respectable man, to whom the India Company had been under great obligations at a particular period during the last war.

I took occasion also to write to my brother in the strongest terms, in the month of January 1776, requesting and insisting with him, that he should confine himself entirely to his own business and profession in the military line, and that he should avoid all interference in the factions or political intrigues, which I understood too often took place in our Settlements in India. This was recommended to him in such a manner, that I have reason to be confident it would have weight with him; and as I find by his letter of the 30th of September last, now before me, that he had received mine of January before the late violent disturbances at Madras, it gives me some degree of hope, that the part he took in the business upon the 23d and 24th of August, was not the result of any preceding spirit of faction, or intrigue, but a sudden resolution taken in consequence of his being reduced to the disagreeable alternative, of either disobeying the orders of Lord Pigot, or those of the Majority of the Council.

The paragraph in my brother's letter, of the 30th of September, on the above subject, is in these words:

*" I feel in my own breast, the greatest inward satisfaction arising from
 " a cool reflection on what is past, and am particularly happy, that, upon
 " an attentive perusal of your long letter, I do not find I can charge my-
 " self with a breach of those rules which your friendship prescribes, since
 " I am convinced that by not interfering in politics, you could not mean,
 " that as a military man I was to obey unlawful authority instead of sup-
 " porting government."*

The conclusion of this letter to me, which is a very long one, and at your command whenever you chuse to peruse it, is in these words :

" The candid part of the world, will justify me from the imputation of every selfish and interested view, when it is known, that, acting upon constitutional principles, I have at two different times refused the command of the army offered to me by Lord Pigot, and upon this occasion I have exerted myself in defence of the rights of the Company at the hazard of my life. Were it possible for me ever to feel the impresson of such motives, it may be reasonably asked, what advantages can possibly be derived to me from my present conduct, or what is there, that this or any other government can give me, that I might not have had from Lord Pigot? My conduct in this respect must remain an incontestible proof to every impartial person of my having acted from conscience, and from conviction of the rectitude of the cause in which I was engaged.

" Before I take my leave of you, my dear brother, I shall beg leave to repeat what I have already declared to my friend General Clavering, that as I hope for mercy, I never had any promise, neither am I in possession or expectation of any private benefit whatever, resulting from the change now brought about in this government."

If you will allow me to shew you the whole of my brother's dispatches upon this occasion, you will perceive, that so far from having any idea of the possibility of prejudices arising against him in this country on account of what he had done, he seems to be under the influence of the strongest conviction, that he had done a most meritorious service to the East India Company, and to the country in general, by preserving peace in the Carnatic, by establishing what appeared to him to be the legal government, and accomplishing all this without bloodshed or tumult.

So much is he under the influence of that conviction, that in the last letter received from him, dated 10th October, he desires me, on the footing of the services he has upon this occasion rendered to the India Company,

Company, and to the British empire in India, to apply to the Company for the rank to him of Brigadier General in India by brevet; and further suggests, that as he had been fourteen years a Lieutenant Colonel in the King's service, and had never yet received any mark of favour for the part he acted in the successful storming of the Moro Fort at the Havannah, that he thinks this recent service in India should, with his former services during the last war, obtain to him the rank of Colonel in the King's army.

By thus laying before you the state of Colonel Stuart's mind upon this occasion, as painted in his private letters to a brother, it will readily occur to you, what a severe disappointment and mortification it will be to him, if, instead of those public marks of approbation, which his imagination had already almost realized to him, he should find, that his character and conduct upon this occasion have been attacked in the most violent manner, that the circumstances of his behaviour have been painted in colours the most likely to excite prejudices and even indignation against him, before any account had arrived here from himself, and before there was an opportunity of informing the Public of the true state of facts; and that, upon no other authority, than a letter from Alexandria, from a gentleman known to have taken a very warm part in these disputes, and to be the declared enemy of Colonel Stuart.

I do not mean by this to impute any blame to Admiral Pigot, or the other friends of Lord Pigot in this country, for endeavouring to interest the Proprietors and the Public strongly in his Lordship's favour. It was natural for them, believing what they had heard, and thinking as they did of the proceedings at Madras, to be inflamed with zeal for his Lordship, and with indignation against those who had any share in the events which had happened to him, and in that temper it was natural for them to avail themselves of what may be called the *bonest prejudices* of the Public; for these prejudices instilled by the letter from Alexandria, were founded on compassion for a man considered as injured, and indignation at those whom the Public then conceived to have acted towards him both harshly and unjustly.

But Lord Pigot's friends must think it equally natural on my part to endeavour to prevent these prejudices from extending their influence too far in this business.

In the present state of these Indian disputes, before the facts have been properly ascertained, it is not my wish, nor my intention, to make any assertions, favourable or unfavourable, either to Lord Pigot's or to my brother's cause; but I do most sincerely wish, that there may be a full, fair, and impartial examination into the conduct of all the persons at Madras, who have been concerned in the late important transactions there, and that this may be done in the most speedy manner, and in that manner which is most likely to prove effectual for bringing the truth to light, and for making every actor appear to the Public in his proper colours.

As I cannot doubt that a measure so requisite for the honour and interest not only of individuals, but of the India Company and of the British nation in general, will be adopted, the object of my present request, is no more than that, in the interval which precedes the enquiry, the Directors and Proprietors of the India Company may be pleased to suspend their opinion of Colonel Stuart's conduct, and that they may also be pleased to abstain, during that interval, from any resolutions which, by inferring an immediate disapprobation of his conduct, may be essentially prejudicial to him.

You know, Sir, that when my brother went to India, he was appointed second in command, to succeed to the command in chief upon any vacancy, by the death, resignation, or removal, of Sir Robert Fletcher, the Commander in Chief.

I have been told, that on the 4th of April, before my arrival in London, and very recently after the arrival of the first advices about these disturbances at Madras; a message was sent by the Directors to Lieutenant Colonel Munro, desiring him to accept of the command in chief at Madras, and that it has even been in agitation to send out another officer second in command there. These steps, if true, have been
carried

carried on with so much expedition, and with so little notice to any person concerned on the part of the first and second in command upon the coast of Coromandel, that I must be excused for thinking it a hard measure on the two Gentlemen who now fill these stations; it is in effect, proceeding to judgment and condemnation of them, even before any notice given to themselves or to their friends, to prepare for their defence.

If there is to be a certain number of Commissioners sent to India to inquire into the late disorders at Madras, and to restore peace and good government in that country, I do not deny that it is reasonable and equitable, that, during such enquiry, the principal actors on all sides, whether in the civil or military service of the Company, should be suspended from their functions, and that others should be appointed to occupy their places, until, by the result of the enquiry, it shall appear, whether the persons thus suspended had been faithful or unfaithful servants to the interests of the Company. When such inquiry is completed, let the subsequent fate of every man thus tried, be regulated by his merit or demerit in the transactions which gave rise to the enquiry.

But surely it cannot be your intention, Sir, nor that of the other Gentlemen in the Direction of the East India Company's affairs, to adopt a mode of proceeding in this particular case, which shall have the effect to make disapprobation and punishment precede inquiry.

This is so repugnant to every principle or rule of proceeding hitherto observed, either by the India Company, or by any society of men acquainted with the blessings of the British constitution, that I cannot persuade myself that there is any serious intention of adopting it.

But it will be adopting it effectually, if any officers are to be sent to Madras, with commissions to supersede Sir Robert Fletcher and Colonel Stuart, and that for an indefinite period of time.

That a proper officer should be appointed to take the command of the army, during the enquiry into the conduct of Sir Robert Fletcher and
Colonel

Colonel Stuart, is a measure which cannot with propriety be objected against; but it is submitted that the commission to such officers should be temporary, to subsist only till the enquiry into the conduct of the present first and second in command at Madras shall be completed; or at least, that the commission to be granted to any officer now to be sent to Madras, should not be prejudicial either to Sir Robert Fletcher, or to Colonel Stuart, in the event of the proposed enquiry terminating in a manner honourable for them.

It must be admitted on all hands, that it is at least a *possible* case, that Colonel Stuart, in the part he has acted in obedience to the orders of the Majority of the Council, may, instead of deserving censure or supercession, have actually done what was proper and meritorious on his part.

It is also at least a *possible* case, that if he has done wrong, or acted irregularly, in obeying the orders of the Majority of the Council, he has been guilty only of an error in judgment; and that his conduct may appear to have been guided by the best intentions for the interest of the Company.

Upon these suppositions, I beg leave to submit it to your consideration; and to that of the other Gentlemen in the Direction of the Company's affairs, to whom I beg this Letter may be communicated as soon as possible, whether it would not be the source of much regret and uneasiness hereafter to yourselves, if you should find that, by a sudden resolution founded on the first reports, your conduct to an officer, who in the event shall be found to have deserved well of the Company, had been such, that it was no longer in your power to redress the material injury that had been done to him, both in point of situation and character.

You will observe, Sir, that, in the whole course of this Letter, I have not pretended either to approve of my brother's conduct, or to advance any thing against that of his opponents; I have contended for nothing else

else but a fair and impartial inquiry, and a suspense of decisive judgment, until such inquiry is completed.

In contending for this equitable conduct, I have not availed myself of the intelligence recently received from Madras, by a very reputable and esteemed Servant of the Company, Colonel Capper, who has brought letters and accounts containing such a favourable representation of Colonel Stuart's conduct, and bestowing such encomiums upon it, as might perhaps have entitled me to state it as something stronger than a *mere possibility* that his conduct upon inquiry may be found to have been meritorious.

To enter into the particulars of the accounts thus received by Colonel Capper, would be engaging further in this contest than I have any inclination to do at present, and further than I can at any rate permit myself to do, until I am possessed of full information on both sides of the question.

It is sufficient for the only purpose I have in view, that of an impartial inquiry, and till that happens, a suspense of judgment, that there exists a *probability*, or even a *possibility*, of Colonel Stuart's having acted such a part, as entitles him to approbation, or even such a part as does not render him obnoxious to censure and punishment.

This *probability*, or, if that is disputed, this *possibility*, which no man can deny to exist, entitles me, without presumption, to expect from the East India Company, that measure of justice to my brother, which the laws and constitution of this country never refuse even to the most abandoned wretches, when accused of the most enormous crimes, that they shall not be punished till they are tried and heard in their defence.

Let my brother stand or fall by a fair trial, and investigation of his conduct; but I trust with confidence in the justice and equity of the honourable Company, that no such permanent and prejudicial measure will be adopted at present, as may, by virtually depriving him of his
situation

situation and prospects in the service, inflict a very severe punishment and censure upon Colonel Stuart, untried, and unheard in his own defence.

I have the honour to be, with great regard,

S I R,

Your most obedient

And most humble servant,

BERKLEY-SQUARE,
April 14. 1777.

ANDREW STUART.

A

L E T T E R

TO THE HONOURABLE

The Directors of the East-India Company,

FROM

ANDREW STUART, Esq;

RESPECTING

The Conduct of Brigadier-general JAMES STUART,
at MADRAS.

[December, 1778.]

L E T T E R

TO THE HONOURABLE

The Directors of the East-India Company,

THE

ANDREW STUART Esq

RECEIVED

The Consul of England-General JAMES STUART,

at Madras.

[December 1851]

(8)

GENTLEMEN,

IT is now near eighteen months since I had the honour of addressing to you any request or application in behalf of my Brother, Colonel Stuart, who for some time past has been Brigadier-general in the service of the Honourable East India Company. I have at all times thought it my duty to abstain from giving you unnecessary trouble, and though frequently urged to represent to you the peculiar hardships of my Brother's case, it appeared to me more suitable to refrain from any remonstrances, until we should know here the event of his trial by a Court-martial, for which orders were sent to India, by the Company's general letter of the 4th of July, 1777.

But the dispatches recently received from Madras, which contain an account of what has passed there, in relation to the proposed Court-martial, put me under the unavoidable necessity of immediately soliciting your attention to the peculiarity of my Brother's situation.

Without partiality or prejudice, I may venture to say, that the circumstances of his case, when deliberately and candidly considered, will be found worthy of your most serious attention; and, I trust will call aloud for some immediate redress, to stop the further progress of the accumulated severities, hardships, and indignities, which appear to me to have been inflicted on Colonel Stuart, a person succeeding, by your own appointment, to be Commander in Chief of your army in the Carnatic.

These severities have been inflicted, not only antecedent to any trial of his conduct, but without any proper evidence of his being culpable; and the influence and effects of them still continue to subsist with full force and rigour against him, in consequence of the refusal he has lately met with at Madras, of a Court of Enquiry, or a trial by a Court-martial.

This enquiry and trial you had, by your orders, sent by the Besborough in July 1777, directed to take place, and in conformity with that direction, Colonel Stuart, flattering himself that the wished-for moment was arrived for vindicating his character and conduct on the spot where the transactions had happened, and that a period would soon be put to his sufferings, solicited that public trial in the most earnest and fervent manner; but hitherto in vain;—for the result brought by the last dispatches from Madras, is, that the Governor and Council there, at the same time that they refuse the trial so earnestly requested, and even insisted upon by Colonel Stuart as his right; are pleased, in consequence of the directions they had received from home, to continue for an indefinite time that suspension, which, in the early stages of this business, had been inflicted during the space of six months.

The consequence now is, that after having exerted himself, while Commander in Chief of your forces, in the most indefatigable and confessedly useful manner for the interests of the Company, by many new military regulations, and by putting the army and military posts in the Carnatic on the most respectable footing, of which the Company, if I am rightly informed, has received undoubted intelligence, and from which, by the circumstances of the times, they may probably soon feel material advantages: I say, after these exertions, which, jointly with the baneful influence of the climate on European constitutions, have greatly impaired his health; he finds himself degraded from the first military situation, with severe marks of displeasure, waiting the return of the dispatches lately brought home; and suffering in this unpleasant interval, all the anxieties and impatience

incident to an officer of spirit, exposed to the continuance of the prejudices and aspersions with which his character and conduct had, in the first heats of party-rage, been assailed, without any means afforded him of vindicating his honour, by opposing, in the course of a public trial, authentic facts and proofs to groundless or illiberal imputations.

To satisfy you, Gentlemen, that there is nothing exaggerated in this short sketch of his situation, I must beg your permission, to bring under your view, some of the most striking incidents which have happened since the period when he received from you his first commission in the service of the Honourable East India Company.

In the year 1775, Colonel Stuart, at that time a Lieutenant-Colonel of many years standing in the King's service, was, with his Majesty's permission, appointed second in command of all the Company's forces upon the coast of Coromandel, with the rank of Colonel in their service; and by the same appointment, it was settled and established, that upon the death, resignation, or removal of the then Commander in Chief Sir Robert Fletcher, the command in chief, with the same rank of Brigadier-General, should devolve upon and be enjoyed by Colonel Stuart.—Upon the faith of these agreements and appointments Colonel Stuart entered into the Honourable Company's service, and sailed for India.

He left England in November 1775, and arrived at Madras in May 1776.

Before his arrival, there had been many disputes and dissensions between Lord Pigot the Governor, and the Members of the Council at Madras. The contest and animosity between them with regard to their respective powers and privileges, as well as with regard to some matters of government, was far advanced at the time of Colonel Stuart's arrival, and according to all appearances in a way of increasing daily.

I have letters in my possession from my Brother soon after his arrival, mentioning these dissensions, and his intentions to avoid taking part

with either side in their disputes, and to apply himself entirely to his own business in the military line.

In particular, the dissention between Lord Pigot the Governor, and Sir Robert Fletcher the Commander in Chief, soon increased to such a height, that in the month of July 1776, Lord Pigot issued an order for putting Sir Robert Fletcher under arrest, and offered the command of the army to Colonel Stuart, then second in command. This, though a very inviting offer, Colonel Stuart declined; he accommodated the differences between the Governor and Commander in Chief; prevailed on Lord Pigot to withdraw the arrest; and Sir Robert Fletcher was thus continued in the command of the army.

In the month of August 1776, the disputes between Lord Pigot the President, and the Majority of the Members of Council, came to such extremities, that it was evident there could be no further hopes of accommodation between parties who considered their powers, and the constitutional government at Madras, in such opposite points of view.—It was the *crisis* of a contest in which there was no likelihood of either party voluntarily yielding to the other,—a situation which almost unavoidably produces the necessity of resorting to strong and violent measures for asserting or preventing the annihilation of those powers which the contending parties severally think themselves entitled to exercise.

It was this *crisis* and necessity which probably made Lord Pigot, on the one hand, think himself entitled to resort to the violent measures to which he had recourse on the 22d and 23d of August 1776; when his Lordship first suspended from their offices two of the Members of the Majority of Council, and then suspended the whole of them, ordering at the same time Sir Robert Fletcher the Commander in Chief under arrest, upon a charge of exciting mutiny and sedition among the troops in garrison, which was inferred from his concurring with the Majority of Council in a protest signed and circulated by them on the 23d of August.

On the other hand, it was probably the same *crisis* and necessity gave rise to the idea and to the resolution taken by the Ma-

majority of Council, and by Sir Robert Fletcher the Commander in Chief, upon the same 23d of August, when they assumed the reins of government, and signed an order to Colonel Stuart the second in command, on whom they conferred the temporary command of the army on account of the indisposition of Sir Robert Fletcher, by which order they required him, Colonel Stuart, to put them, the Majority of Council, in possession of the fort-house, fortrefs and garrison of Fort St. George, and to arrest the person of Lord Pigot the Governor. By the same order, the Majority conferred upon Colonel Stuart the command of the garrison of Fort St. George, during the present danger.

Here I think it proper to declare that it is by no means my intention to criminate or exculpate either Lord Pigot, and the Gentlemen who adhered to him, or the opposite party composed of the Majority of the Members of Council: I do not wish to embark myself in any part of that controversy relating to the merits of the questions which first produced the dissensions, and afterwards the total rupture between Lord Pigot and the Majority of Council; for besides a natural dislike to all manner of controversies where I am not necessarily and unavoidably called upon to take a part, I do apprehend that the merits of my Brother's case, stand upon grounds totally separate and distinct from those which have been contested between Lord Pigot on the one hand, and the Majority of Council on the other; I have hitherto avoided, both in the India-house and in Parliament, taking any share in the questions agitated between these parties, and it is my intention to continue to do so, unless points should occur where my Brother's honour or interest might happen to be essentially affected, and in which I may think him so much in the right, as to make it an unavoidable duty on me to stand forward in his behalf.

I mean, therefore, here to confine myself to the particular circumstances under which Colonel Stuart acted, in obedience to orders from Superiors, whom he thought himself bound to obey, without taking upon myself to say or insinuate, whether these Superiors did right
or

of wrong, in issuing those orders; neither shall I presume to give an opinion, whether the violent acts, either of the one party or the other, were right in themselves, or justifiable from reasons of expediency or necessity.

The difficult alternative to which Colonel Stuart was reduced by the orders received from the opposite parties.

The written order of 23d of August 1776, to Colonel Stuart, for putting the Majority of Council in possession of the fort, and for arresting the person of Lord Pigot, was signed by Seven Members of the Council, which constituted an unquestionable Majority; and it is farther to be observed, that one of those Members who signed that order, was the Commander in Chief, Sir Robert Fletcher.

At the time when Colonel Stuart received this order, he had no seat or vote in Council, no deliberative voice; his duty was that of obedience only to his lawful superiors, civil and military; he thought it therefore indispensibly his duty to obey the joint orders of a clear Majority of Council, concurring with the Commander in Chief; convinced, as he has always been, and still declares himself to be, that the legal constitutional government in the Company's settlement at Madras is vested, not in the Governor or President alone, nor in the Governor with a Minority of Council, but in the Majority of the Members of Council.

Upon the same day that the Majority of Council and the Commander in Chief signed the above order to Colonel Stuart, there was an offer to him of the command of the army, from Lord Pigot and his Lordship's friends in Council. The general orders issued by them of that date were in these words :

“ Fort St. George, 23d Aug. 1776.

“ The Right Honourable the President and Council having been
“ pleased to order Brigadier-general Sir Robert Fletcher in arrest, for be-

“ ing

(3)
"ing concerned in circulating letters tending to excite and cause mutiny
"and sedition among the troops in this garrison, Colonel James
"Stuart is ordered to take upon him the command of the troops under
"this Presidency, and all reports and returns are to be made to him
"accordingly."

Here then Colonel Stuart, to whom upon the same day the temporary command of the army was offered by one party, and the absolute unlimited command by the other, with positive requisitions from each to act under their authority, was placed in one of the most delicate and difficult situations that ever fell to the share of any military man;—it was impossible for him to be an inactive or an idle spectator.

Had he refused the command of the army, and thus incurred disobedience to the orders of both parties, he was liable to be persecuted by both, at least by the party which should gain the ascendant, by whom he would certainly have been put under arrest, and brought to trial by a Court-martial for disobedience of orders.

He was therefore reduced to this alternative, that he must either give support to the government of Lord Pigot, to the prejudice of all the suspended Members of the Majority, and to the prejudice of his Commander in Chief, then ordered under arrest, and about to be tried for his life; or he must obey the joint orders of the Commander in Chief, and the Majority of Council.

The situation was a very hard and disagreeable one for Colonel Stuart; because, whether he obeyed the orders of one or the other party, he was certain to meet with much blame, outcry, and persecution, from the opposite party. We all know how liberally these have been bestowed upon him, in the event which has happened; but let us suppose

The consequences that would have resulted from Colonel Stuart's obeying the orders of the President and Minority.

pose the contrary event, that he had disobeyed the orders of the Majority and Commander in Chief, and given his support to the government of Lord Pigot and the Minority, what an opening would that have afforded for obloquy and persecution?

His accepting of the command from the Governor and the Minority would have been ascribed to the base ungenerous motive of supplanting Sir Robert Fletcher, the Commander in Chief; and, supposing Lord Pigot to have prevailed at that time, and to have proceeded with the fullest career of success in establishing his government upon the ruins of the Majority of Council, and even without any further resistance on their part, or any disturbance in the settlement, there can scarcely be a doubt that when the news of these transactions reached England, they would have excited a general disapprobation of the violent measures by which a Majority of Council had been deprived of their functions, and the Commander in Chief of the forces put under arrest, and superseded in his command.

Upon that occasion too, the military officer who had lent his aid for establishing that new government, who had availed himself of the opportunity to supplant and to get into the place and profits of his Commander in Chief, and who had been guilty of disobedience of orders, both with respect to that Commander and the Majority of Council, would most probably have felt the severest effects of the indignation of the Directors and Proprietors of the Honourable Company, and of the public at large.

My reason for saying that there can scarcely be a doubt that such would have been the reception given at home to the violent proceedings in August 1776 in suspending the Majority of Council, is founded not only on the nature of the incidents themselves, but on the disapprobation which has been expressed by the India Company of that part of Lord Pigot's conduct, when taken into consideration in this country at a time, and under circumstances the most favourable for his Lordship, and the least auspicious for those who had opposed him.

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If any degree of disapprobation and censure of those parts of his Lordship's conduct could take place at a time when so much generous and natural sympathy arose from the hardships and reverse of fortune which Lord Pigot had experienced,—at a time when the minds of men were in general more filled with animosity and indignation against those who had been the occasion of his sufferings, than attentive to any errors or irregularities in his Lordship's conduct or principles of government, how different would it have been, if the dispatches from India, instead of bringing accounts of any hardships suffered by Lord Pigot, or by those who adhered to him, had been filled only with the news of the hardships, indignities, and prejudices sustained by the opposite party, and of Lord Pigot's having been assisted and abetted in the establishment of this new government by the second in the military command, who by this revolution had attained the command in chief?

I am well warranted to say, that in the case here supposed, the outcry and indignation both against Lord Pigot and Colonel Stuart would have been more general, and better founded, though they could not have been more violent than what Colonel Stuart has experienced in the opposite case which has happened.

It must be allowed then, that Colonel Stuart was most unfortunately circumstanced, since whichever side of the question he espoused in these unhappy disputes between the Governor and the Council, and to whichever of the parties he gave his obedience and support, he was certain of receiving for his reward much future obloquy and persecution.

But the consequences affecting himself were not the only or the most material ones which Colonel Stuart at the time of taking his decisive resolution was bound to attend to; it became proper for him further to consider, what the possible or probable consequences might be, to the Company's settlement in that part of the world, in case he should obey the orders of Lord Pigot and the Minority, in preference to those of the Majority of Council and the Commander in Chief.

Is it at all probable, that Sir Robert Fletcher, the Commander in Chief, known to have been of a disposition neither timid nor indolent, and who was drove to the necessity of making some exertion for his own safety, to rescue himself from his impending fate; I say, is it probable, that he would have tamely and placidly acquiesced in the establishment of the government of Lord Pigot and the Minority, and in his own supercession and trial by a Court-martial, even supposing that Colonel Stuart had given his support to Lord Pigot?

Or again is it probable, that all the gentlemen of the suspended Majority would have placidly and tamely acquiesced in that new government, and in their own suspension, degradation, and disgrace, without making some efforts to preserve their rights and their consequence in the important settlement of Madras?

Is it further to be supposed, that these gentlemen of the Council, many of whom had been long established in India, and had extensive connections there, and who were embarked in a common cause with the Commander in Chief of the troops, would have had no support of friends, civil and military, to espouse their interests?—These things cannot be supposed in consistency with any just observation on the common course of events.

The probability is, if Colonel Stuart, then second in command, had in the month of August 1776 given his obedience and support to Lord Pigot and the Minority, in opposition to the Majority of Council, and Sir Robert Fletcher, the Commander in Chief of the forces, that the consequences would have been much more serious and alarming to the peace and security of the settlement, than any which either actually happened, or were likely to happen, from Colonel Stuart's acting in obedience to the orders of the Majority.

What a dreadful scene, and how alarming in its consequences must it have been, if, while one part of the army shewed a readiness to obey the orders of Lord Pigot and Colonel Stuart, another part, either from attachment or obligations to Sir Robert Fletcher their Commander in Chief,

Chief, or from thinking his life in danger, or from an opinion that the *legal Government* which they were bound to obey was vested in the Majority of Council had declared themselves ready to follow him and their fortunes, and to give their aid for supporting that government.

Surely no man can maintain, with any degree of certainty, or even with a superior weight of probability, that this would not have been the case; perhaps I might venture to express my sentiments more strongly on this subject, because, after having been at considerable pains to inform myself accurately, the information I have received from good authority is very positive, that such would have been the consequences; especially too, as the Supreme Council in Bengal had, even before that period, expressed their sentiments very strongly, in disapprobation of some parts of Lord Pigot's conduct; and it is well known, that they afterwards had no hesitation to pronounce the Majority of the Council of Madras to be the *legal government*, and to declare their firm resolution to support it*.

These particulars have appeared to me necessary to be stated at some length, because, in the course of all the discussions hitherto in relation to these unhappy disturbances at Madras, they seem almost to have escaped observation; no just allowance has been made for the very critical and difficult situation in which Colonel Stuart was placed, and in the midst of the outcry against him, a notion seems somehow or

* In the letter from the Supreme Council to Lord Pigot of the 10th of September 1776, they express themselves thus: "We therefore deem it incumbent on us to declare, that the rights and powers of the Governor and Council of any of the Company's Presidencies, are vested by their original constitution, in the Majority of the Board; that the violence committed by your Lordship, in excluding two of the Members of the Council of Fort St. George, from their places, was a violation of that constitution; that the measures taken by the Majority to recover the actual government, which of right is vested in them, arose from the necessity of the case; and that we shall acknowledge and support the title and authority which they consequently possess."

At the same time, the Supreme Council wrote to Sir Edward Hughes, commanding his Majesty's Squadron in India, "requesting that he would unite with them in affording his assistance and support to the actual government of Madras, if any change of circumstance should render it necessary for them to desire it."

other to have prevailed, as if he had been officiously and unnecessarily active, without considering that he was placed in a situation, where it was impossible for him to be an idle spectator, and where he was reduced to the alternative of paying obedience and giving active support either to Lord Pigot and the Minority, or to the Majority of the Council united with the Commander in Chief.

We all know the total extent of the prejudice and mischief that has happened in the one case; but no person can take upon him to say, of how much greater magnitude the mischief and confusion in the settlement might have been, if the contrary event had happened, by Colonel Stuart's obeying the orders of the Minority, instead of those of the Majority.

It is the business of the Members of the Majority who issued the orders, to shew the necessity or propriety of these orders, for which they alone are responsible; and the only thing incumbent on Colonel Stuart, is to shew the necessity he was under to obey them; and he persuades himself that he shall not only be able to give the utmost satisfaction on that head, but likewise further to prove, beyond the possibility of doubt, that he *executed* those orders in a manner, which of all others was the best calculated to avoid bloodshed and confusion in the settlement.

The mode of executing the orders of the Majority for obtaining possession of the fortress, and for arresting the person of Lord Pigot.

I take it for granted that it will not be disputed by any man, and much less by any man of military experience, that it is a material part of the duty of an officer charged with such an unpleasant and hazardous order, to study to execute it in such a manner, as may least endanger the lives either of those who are the objects of the order, or of those by whom it is to be carried into execution, and

at the same time may be the best calculated for avoiding tumults in the community.

It is admitted on all hands, that all these material purposes were completely answered by the mode in which the arrest of Lord Pigot, and the possession of the fortress of Fort St. George, were accomplished; for there was not a life lost; nay, not the smallest personal hurt received by any one man in the settlement upon this occasion.—Not only so, but from the day of Lord Pigot's arrest, on the 24th of August 1776, to the arrival of the new Government at Madras, in the end of August 1777, there had not been any tumult or disturbance in the settlement, in consequence of the incidents of the month of August 1776, nor any man imprisoned or injured in his person or property; and further, so little was there of confusion or anarchy in the settlement, that according to my information, the accuracy of which you, Gentlemen, have the best opportunities of knowing, the investments for the Company during that period, from the Madras presidency, were to a greater amount than they had ever been known during any similar space of time, and the revenues of the Company on re-letting their home-farms contiguous to Madras were very considerably encreased.

From these facts, one would be apt to think, that a great commercial Company, whose chief and ultimate object must be the peace and tranquillity of the settlements belonging to them, and the prosperity of their commercial interests, would feel some partiality for an officer in their service, who in the execution of such orders, which he thought himself under a necessity of obeying, had so managed, as to avoid every mischief that might have been fatal to the peace of the settlement, or to the lives and properties of those who resided in it.

In all the papers or letters from Colonel Stuart, public or private, he has always expressed the highest satisfaction that the arrest of Lord Pigot, and the obtaining possession of the Fort, had been accomplished without
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any personal injury to his Lordship or any of his friends, and without one drop of blood being spilt upon the occasion : this he at the same time is very confident could not have happened, if he had pursued any other plan, than that which was adopted ; and particularly that a very different scene, and most probably much bloodshed and tumult, must have ensued, if Lord Pigot had been arrested in the fortress of Fort St. George ; or if, from the conduct of Colonel Stuart or others, Lord Pigot had perceived or suspected that there was an intention of arresting him.

Colonel Stuart is also persuaded, and the nature of the circumstances demonstrate, that disagreeable consequences of the same nature must have happened, if the obtaining possession of the fortress and garrison of Fort St. George had been attempted, without the previous arrest of Lord Pigot, while his Lordship, by his personal presence, joined to that of his adherents, was at liberty to have instigated the whole or part of the garrison, to declare on his side, and to resist the orders of the Majority of Council ; which orders, he, Colonel Stuart, was bound at all hazards to carry into execution ; for the terms of them were very express ; they peremptorily required him to put them (the Majority of the Council) in possession of the Fort-house, garrison, and fortress of Fort St. George.

Colonel Stuart had accordingly formed a plan and taken his arrangement for getting possession of the fortress at all hazards, and he has no doubt that he could have succeeded in it ; but at the same time thinks that it might very probably have been attended with the loss of many lives, and in all likelihood would have been more fatal to Lord Pigot and his adherents, than to those who were to carry the orders of the Majority into execution, who knew that they could depend upon the numbers, fidelity, and firmness of that part of the troops which they had at their command for the accomplishment of this undertaking.

The probability or even the chance of such disagreeable events happening, was sufficient to determine Colonel Stuart to avoid the
measures

measures of open force, while there was any possibility of accomplishing the same ultimate objects by any other justifiable means permitted by the terms of the order he had received. This gave rise to the plan concerted with Colonel Eidington, Captain Lysaght, and Major Horne, for arresting the person of Lord Pigot, when on his road from the Fort to the Company's Garden-house, and of conducting his Lordship with safety and without insult of any sort to the Mount, at the distance of about seven miles from Madras, there to be under the charge of Major Horne, the commanding Officer of the corps of Artillery, who was a person well known to and respected by Lord Pigot, and whose general character put him above any suspicions of improper treatment of his Lordship.

As soon as the arrest of Lord Pigot was over, Colonel Stuart instantly returned to Madras, and put the garrison and fortrefs into the possession of the Majority of Council, from whom he had received his orders; and in this manner, by the secrecy and rapidity with which he carried into execution the orders he had received only the preceding day, every object was accomplished, without the loss of one life, and without any disturbance in the settlement.

But, notwithstanding the rapidity with which these decisive steps were taken, an incident happened on the evening of the 24th, even after it was known that the person of Lord Pigot had been arrested, which, though it has hitherto been little adverted to, is well worthy of attention, because it tends to shew what alarming consequences might possibly have happened, not only to Lord Pigot himself, and his friends, as well as to those that opposed them, but even to the settlement in general, if Colonel Stuart, in the execution of the orders, had followed any other plan than that which he actually adopted for attaining possession of the fortrefs.

The incident I allude to, is what happened on the parade, in the evening of the 24th of August, after Lord Pigot had been arrested, and when the fortrefs of Fort St. George had been put into the possession

of

of the new government. Mr. Claud Ruffel, one of the Civil Counsellors of Lord Pigot's party, was found that evening ordering the guards to stand to their arms, to pay obedience to him, as the commanding officer in the absence of Lord Pigot, and endeavouring, by every means in his power, to excite the guards to resistance and violence, while, at this very time too, Mr. Stratton and Mr. Brooke, both seniors to Mr. Russell in the Council, were actually in Fort St. George, and assembled upon public business in the Council-chamber at the Fort-house.

I beg leave to state these incidents precisely in the words of the information given by Mr. Ruffel himself, when examined upon oath before the Coroner's inquest at Madras, upon the 13th of May 1777; in page 29th and 30th of the collection of papers lately published relating to that Inquest, Mr. Russell states what passed upon the parade in the fortress of Fort St. George, in the evening of the 24th of August, in these words:

*" Hearing soon after that Lord Pigot had been carried a prisoner to
 " the Mount, this Informant (Mr. Ruffel) thought it his duty, as se-
 " cond in Council, to repair immediately to the Fort. In his way thi-
 " ther, this Informant met with Mr. Stone, who accompanied this In-
 " formant; when they entered the Fort and came near to the main-guard,
 " this Informant met the Town-major, Captain Wood, who told this In-
 " formant, that he (Captain Wood) had been put under an arrest for doing
 " his duty; this Informant therefore directed the Town-adjutant, Lieu-
 " tenant Pendergait, who happened to be near, to go to the Captain of
 " the main-guard, and acquaint him, that it was his orders, in the ab-
 " sence of Lord Pigot, that the guards should stand to their arms. Ob-
 " serving that the Captain of the main-guard (Captain Adair) hesitated
 " to comply with those orders, this Informant went himself to Captain
 " Adair and repeated his orders, apprising Captain Adair of the danger
 " of refusing obedience, as this Informant was the commanding Officer in
 " the absence of Lord Pigot, under whose orders the guards were.
 " Captain Adair seemed to be much alarmed, and muttered something
 " about the Commander in Chief; upon which this Informant asked Cap-
 " tain*

tain Adair, if he had received any orders contrary to what this Informant then gave him. Captain Adair answered in a confused manner, that he had received orders from the Commander in Chief. About this time a crowd of officers assembled round, and as the guard appeared to be standing to their arms, part having already fallen in, this Informant was advancing towards their front, when Colonel James Stuart came up to this Informant, and told him he must go to the Consultation-room. This Informant replied, he was not under the orders of Colonel Stuart, but on the contrary, that he was under the orders of this Informant. Some more words to the same tendency passed between Colonel Stuart and this Informant, when Colonel Stuart called out orderlies, ordering them to seize the Informant. Lieutenant Colonel Eidington and Captain Barclay, each seizing this Informant by the arm, this Informant called out to the officer of the guard for assistance, but in vain, although some of the grenadiers did step out of their ranks. In this manner, this Informant was dragged by Colonel James Stuart, Lieutenant-colonel James Eidington, and Captain Barclay, some orderlies pushing this Informant behind, to the Council-room; where this Informant found Messrs. George Stratton, Sir Robert Fletcher, Henry Brooke, Charles Floyer, Archdale Palmer, Francis Jourdan, and George Mackie, sitting at the Council-table. This informant was detained in the Council-room, until Colonel James Stuart dictated a narrative of what had passed upon the parade, to Mr. Jourdan, who appeared to act as secretary."

In another account given by Mr. Ruffel of this same matter, also upon oath, in the month of August 1776, there are the following additional circumstances:

" That Colonel Stuart, upon seeing several of the grenadiers advancing from the ranks towards him (Mr. Ruffel), seem'd to be so much alarm'd with this, that he quitted his hold of the Deponent (Mr. Ruffel), and ran back to push the grenadiers into the ranks, with oaths and threats; that, after effecting this, Colonel Stuart returned to assist Colonel Eidington, and Captain Barclay, by laying hold of the Deponent's

"went's wrist, and calling for an orderly serjeant, to push him (Mr. Ruffel) behind."

The inference I draw from these facts is, that when we see that such a sensation and beginning of disturbance could be produced in the garrison at a time so unfavourable for Lord Pigot's friends, when his Lordship was in safe custody with the corps of artillery at the Mount; and when there was so little time or opportunity afforded them to prepare for any plan of resistance; and when we see that this Gentleman, Mr. Ruffel, though unsupported by the other Members of the Minority, was resolutely bent on resistance, did every thing in his power to excite the guards to it, and had actually made such an impression, as at one time to make some of the guards stand to their arms, and afterwards to excite some of the grenadiers to step out of their ranks to give him support, if the further progress of these first impressions had not been checked by Colonel Stuart's violently threatening and pushing back these grenadiers, and afterwards laying hold of Mr. Ruffel, and forcibly taking him from the parade; I say, when we observe all these things, do they not afford the most complete conviction, that if Lord Pigot had not been arrested, but had been with the garrison, or at liberty, at the time when Colonel Stuart, in obedience to his orders, was to seize the fortress, there must have ensued a very serious conflict, and the loss of many lives.

Without any disparagement to Mr. Ruffel, who I know enjoys a respectable character, and who shewed as much zeal and resolution as was possible for any man in his circumstances, I may on good grounds presume, that Lord Pigot himself, had he been in a situation to act, would not have been less zealous or less determined; and that his personal presence in the garrison, where, as Governor of the fort, he had a right to command, and accompanied with friends who would have supported him on the occasion, could not have failed to have produced a very different spirit and degree of resistance among the troops in the garrison; it must have been of a much more serious nature, than what was or could be produced by the efforts of any of the Counsellors of Lord Pigot's party, who had never acted but in a civil capacity.

Lord

Lord Pigot's former military actions, his rank, the command he was accustomed to have of the guards of the garrison, and his known intrepidity and warmth of temper, would certainly have disposed many of the guards to have obeyed him; and there can hardly be a doubt that he would have risked his own and their lives, rather than yield to the power which required possession of his garrison; and that in all probability he and many of his adherents, overpowered by numbers, would have fallen.

Let any man fairly estimate in his own mind these events which, in all human probability, would have happened, compare them with those which actually did happen, and then declare ingenuously, whether he thinks Colonel Stuart is entitled to merit or demerit, with the East India Company, with Lord Pigot's friends, and with this country in general, for preferring to every other, the plan which was actually pursued.

The mode of arresting Lord Pigot, and some of the circumstances attending the accomplishment of it, have been loudly complained of, not as affecting either the peace of the settlement, or the interests of the Company; but on this ground, that the arrest is said to have been brought about in a manner that was unhandsome, and deceitful, and that I may not seem to avoid stating it in the strongest terms, even treacherous to Lord Pigot.

The objections to the mode of arrest considered.

Upon these topics every circumstance or commentary that could be collected from the mouths of enemies to Colonel Stuart, has been wrought up with uncommon ingenuity to inflame the minds of the East India Proprietors, and of the public at large, against him; so much so, that there could not have been more rage and violence, if, instead of applying his utmost attention and management to save Lord Pigot's life, he had been guilty of his murder; or if, instead of avoid-

ing confusion in the Settlement, he had involved it in tumult and bloodshed.

If it were unquestionably ascertained upon an examination of unprejudiced and impartial persons, that Colonel Stuart, in the circumstances in which he was placed, had acted improperly and with deceit, harshness, or treachery to Lord Pigot, I may venture to say that there is no person to whom that part of his conduct could give more uneasiness, and real concern, than to myself; or who would be less apt to attempt any vindication, even of a Brother, in such particulars.

I should have no hesitation to condemn any harsh or improper behaviour towards Lord Pigot, on a double account; both because such behaviour would be very unsuitable from one Gentleman to another, and because Lord Pigot was a character entitled to respect and attention from the world in general, and particularly from those connected with the East India Company, to which he had rendered such signal services at a former period of his life.

But when the minds of men are much heated in party contest, we are not to give implicit faith to the assertions either of the one party or the other, with regard to the conduct of a person, whose part in the business allotted to him has rendered him obnoxious,—especially in so far as these assertions relate not to substantial facts, incapable of being mistaken, but relate to expressions uttered in the course of conversation, and even to the manner, and the tone of voice which accompanied them.

It happens so often that such expressions, and the circumstances attending them, are meant, understood and related in so very different a manner, by different persons present at the same instant, that no solid reliance can be placed on them as articles of accusation.

I therefore shall not think it necessary to take much notice of some of the articles which fall under that description; let it however be remembered, that the accounts which were in the beginning circulated by one party, concerning Colonel Stuart's expressions, or conversations, in the course of the transactions of the 24th of August, are expressly denied and contradicted by the other party.

When

When the accounts of the disturbances at Madras first reached this country, Colonel Stuart's friends were not supplied with the proper information for answering the various assertions or calumnies with which his conduct was attacked; because not having any idea that he was to be traduced in such a manner, he had not supplied his friends with the means of obviating or refuting the imputations.—Colonel Stuart at Madras could not divine the terms of the Letter which Mr. Dalrymple wrote from Alexandria, at the distance of many hundred miles;—nor could he foresee at Madras, the liberties which, in consequence of that Letter, and of other reports circulated at the commencement of this Indian dispute, were taken with him in this country, at the distance of some thousand miles.

The first time that his attention to certain imputations was more particularly excited, was in the month of April 1777. He was at that time at Tanjore, and received, by means of a friend at Madras, the copy of a pamphlet or case drawn up on Lord Pigot's part, which had been printed with great secrecy in India, to be forwarded to this country.

By the first conveyance, after he had seen that pamphlet, I received a letter from my Brother, wherein, amongst other things, he particularly gives an account of what passed in the Council-room on the evening of the 24th of August, immediately before the arrest took place; and the account there given, expressly contradicts the declarations, imputed by Lord Pigot's friends to Colonel Stuart, during the course of that interview in the Council-room. What he says to me in his private letter on this subject, which I am ready to submit to your perusal, is in these words:

“ As to what is *falsely said* of my having given my honour to obey
 “ the orders of Lord Pigot's faction, I trust, that, independent of my
 “ own assertion being full as good as the assertion of Mr. Russel so
 “ nearly connected, the evidence of Mr. Sullivan, who was present,
 “ and then acting as Secretary, will be more than sufficient to overturn
 “ the calumny; but if I may be believed to have any memory, or to
 “ be possessed of common sense, or consistency of conduct, none who
 “ know

“ know me as such can possibly think, that the man who wrote and delivered the letter the morning of that memorable day, the 24th of August (of which you have a copy), could possibly make such a declaration the same evening.

“ Very true it is, indeed, that the members of Lord Pigot's faction had summoned me to meet them in order to cross-question, and if possible, commit and entrap me in some snare; and as I had no previous notice of their intention, it required the utmost effort of caution and prudence in me to elude their intentions. At the precise time of this fiery ordeal, the secret was in the power of near fifty persons, including the parties at that very moment posted on the road to the Garden-house under the Adjutant-general, and Captain Lyfaught; the commanding officer of the artillery at the Mount, had also orders to receive him; the Commandant of the Fort had likewise agreed to receive my orders on every emergency; Lord Pigot's chaise was at the door; what then was for me to do, at that most critical period? Had I bluntly contradicted their assertions, with regard to their legal powers, or in direct terms refused to obey, the Settlement must have been involved, together with myself and the Gentlemen who obeyed my orders from a sense of their duty, in scenes of the greatest horror; for Lord Pigot, as was natural to suppose, was resolved to have remained in the Fort, and to have exerted every authority given him by his military commission; and I was equally resolved to have carried him by force from thence to the Mount, at the risk of falling in the attempt. What other line could a man of common prudence or humanity follow, than that which I did, viz. neither asserting nor denying their propositions, but appearing, as I really did, passive on the occasion. It was a trial of skill, which lasted at least three quarters of an hour. Instead of self-condemnation, the retrospect of the part I acted at that time affords me the greatest satisfaction, because, under Providence, to that is owing, what the annals of history will not produce, viz. so univer-

"sal a change being brought about so suddenly and without any individual being hurt in his person."

But there is one circumstance, which does not fall within the description of expressions or conversations, liable to be mistaken, and it is that which of all others has made the most noise, and excited the greatest prejudice against Colonel Stuart in this business, the circumstance of his *accompanying Lord Pigot in the chaise* at the time when he was arrested.

That Colonel Stuart did accompany Lord Pigot in the chaise from the Fort to the place where he was arrested, on the 24th of August, which was about 700 paces from the fort of Madras, is certainly true; and I have no hesitation to say, that since Lord Pigot was to be arrested, I most sincerely wish that it could have been accomplished without Colonel Stuart's attending him in the chaise, supposing that practicable with equal safety to his Lordship's person, and to the peace and security of the settlement: for I do own, that to persons at a distance from the scene of action, this circumstance carries, upon its first appearance, something very disagreeable and unfavourable for the person who was placed, or placed himself, in that situation.

I have no right to be surpris'd that it should have excited, in the early stages of this business, a considerable degree of prejudice against Colonel Stuart, since even the relation and friendship between him and me did not at that period totally exempt me from the influence of the same prejudices.

At the time when these prejudices most prevailed, which was upon the arrival of the first accounts of the unhappy disturbances at Madras, no person in this country was supplied with proper information as to the motives of Colonel Stuart's conduct in that particular; nor was there any allowance made for the considerations of a public nature, which might have induced him to take this step of attending Lord Pigot in the chaise, even at the risque of temporary impressions to the prejudice of his character as a private man.

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I do not mean, however, to enter into the discussion of any abstract unnecessary questions; nor shall I attempt to mark out the precise line to be pursued, where the duties which one owes to the public, are to be put in competition with those which a man may fairly be supposed to owe to himself.

These are questions of delicate discussion, and whether decided in one way or the other, there are so many hazards that general maxims upon such topics may produce mischief to society rather than utility, that it is perhaps better to avoid, than to embrace any opportunity of abstract reasoning upon them.

But this I may venture to affirm, that when the conduct of any man is unfortunately distracted by contradictory obligations, and when the duties he owes to the general interests of the state, or to that particular body of men, in whose service he is employed, happen to interfere with the attention due to his own private character and reputation; the decision in such an alternative must be truly distressing. A plausible ground will always remain for censure and disapprobation, and, as has happened in Colonel Stuart's case, men will impute to the errors of conduct what arose from the difficulties of situation.

Instead, therefore, of entering into the discussion of any general question, I shall only beg leave to state the particular situation in which Colonel Stuart found himself, at the time when it appeared to him of essential consequence that he should accompany Lord Pigot in the chaise,—to point out the hazards which might have ensued if this mode had not been adopted,—and to endeavour to correct the errors and misrepresentations which attended the first editions of this story; for in the accounts at first circulated, circumstances of friendship and connection between Lord Pigot and Colonel Stuart, and of treacherous deceits practised upon his Lordship, were superadded to the fact of Colonel Stuart's accompanying him in the chaise, and these misrepresentations no doubt contributed greatly to excite the violence that at first appeared against Colonel Stuart.

After performing this proposed task, I shall not presume to offer any opinion of my own, but leave it to you, Gentlemen, to form your own judgment upon this part of Colonel Stuart's conduct.

Whatever degree of management or address, Colonel Stuart may have employed in the arresting Lord Pigot's person, and obtaining possession of the fortress, I presume that I may be allowed to take it for granted in the first place, that no one at all acquainted with Colonel Stuart's character, or the incidents of his life, will suppose that his conduct upon this occasion was suggested or regulated by the motives of attention to his own personal safety; his military services, and even the acknowledgment of his enemies, leave no room to question his personal courage and intrepidity.

There can hardly be a doubt in the mind of any man, that the measure of arresting Lord Pigot privately, in preference to the other alternative of securing his person in an open and violent manner, proceeded from a desire of not occasioning the loss of lives, and of preventing any tumults and confusion in the settlement; and it may not be assuming too much to add, that it proceeded also from a desire to avoid any chance of injury to Lord Pigot's person. The only question is, whether, in the accomplishment of these purposes, Colonel Stuart employed more address, than is justifiable, even for the attaining any great public objects.

It seems to be generally agreed, that since Lord Pigot was in all events to be arrested, it was much more proper that his arrest should be accomplished in a private manner, without noise or disturbance, than that the hazard should be incurred of any tumult or scuffle, by an open and violent arrest. This preference of a *private arrest*, includes in it an approbation of some degree of management, some address or surprise in the accomplishment of the business recommended to the executive officer; for without these it ceases to be of the nature of a private arrest, the very object of which is to lay hold of the person to be arrested, when unsuspecting any such intention against him, and unprepared for resistance.

So far at least then is clear, that it ought not to create any prejudice against Colonel Stuart, that he secured Lord Pigot's person when unprepared for resistance, and without any suspicion of what was intended.

This may afford an answer to a considerable part of the outcry which was raised by the undistinguishing multitude, who were affected by the contrast drawn, and by the pathetic description given of Lord Pigot, unprepared for defence, and free from suspicion; while he, Colonel Stuart, had settled in his own mind the plan which he was to pursue, and so conducted himself, that Lord Pigot could form no suspicion of the event that awaited him.

Even if Colonel Stuart had been on terms of great intimacy or friendship with Lord Pigot, the very reverse of which I beg leave to observe, was the fact, it will probably be allowed by those who attend to the circumstances of the respective situations of Lord Pigot and Colonel Stuart, at that time, that it would have been a blameable instead of a praise-worthy action on Colonel Stuart's part, if he had not concealed from his Lordship the orders he had received, and the means by which he proposed to carry them into execution; for in judging fairly upon this point, it must be taken into consideration, that Colonel Stuart was not only convinced of his duty to obey that order with fidelity and secrecy, but at the same time convinced that the safety of Lord Pigot's person, and the preservation of many lives, depended upon his Lordship's having no suspicion of what was intended.

That the merit or demerit of these steps of concealing from Lord Pigot the intended arrest, and of attending him in the chaise, may be fairly appretiated, it is necessary, that they should be separated from those additional circumstances, which were artfully interwoven with the first accounts of this transaction, and having ever since accompanied the criticisms on Colonel Stuart's conduct, they have been one of the principal means of carrying to such a height the prejudices against him.

It was said, that Colonel Stuart, at the time of these transactions, was in habits of friendship and intimacy with Lord Pigot, and even possessed a considerable share of his confidence; that he was under obligations to Lord Pigot, or at least was courting his favour and confidence, that he had invited himself to sup with Lord Pigot on the 23d of August, and to breakfast, and then to dinner and supper with him on the 24th, the day of the arrest; and that all this was done solely with a view of *betraying his friend*.

This, to be sure, was a very unfavourable representation for Colonel Stuart, and it is not surprising that it should have excited a warm indignation against him;—it will now, however, appear that not one of the above particulars has the least foundation in fact.

That Colonel Stuart was in no habits of friendship or intimacy with Lord Pigot, at or about the time of these transactions, is a fact not only asserted by Colonel Stuart, in the various letters received from him, but was known almost to every person at Madras; and there are several Gentlemen from India, now in London, both in the civil and military departments of the Company's service, who can attest the truth of these assertions.

But, independent of any other testimony, the records of the Company afford satisfactory evidence upon this point. It there appears, that Lord Pigot, for a considerable time before the incidents of the 23d and 24th of August 1776, had been in a course of thwarting and opposing every plan that had been proposed by Colonel Stuart's friends, with a view to his being established in a particular military command, which from his rank in the service, from the importance of the command, and from the opinion of the Commander in Chief, Colonel Stuart was thought to have a good title to expect.

From the 25th of June 1776, upon which date Sir Robert Fletcher proposed at the Council Board, that Colonel Stuart should be appointed to the command of Tanjore, to the 22d of August 1776, when Lord Pigot suspended two of the counsellors, for signing an order to the Se-

cretary, directing him to sign the instructions to Colonel Stuart, as Commander of Tanjore; Lord Pigot was constantly in opposition to the proposed appointment of Colonel Stuart to that command, and it was the dispute between the Majority and his Lordship, in relation to these instructions to Colonel Stuart, that brought matters to a crisis between them on the 22d of August, which, it is material to observe, was but two days before the arrest of Lord Pigot.

By attending to this fact, and to these dates, every man must be convinced, that there were no apparent habits of friendship between Lord Pigot and Colonel Stuart at or about the time when the Colonel, in obedience to the orders which he received from the Majority of Council on the 23d of August, concerted and executed the plan for arresting Lord Pigot's person; at least, the strong and marked opposition which Lord Pigot, had given during the course of many weeks, to Colonel Stuart's obtaining the command at Tanjore, was either a symptom of their being on bad terms, or a circumstance not likely to produce much cordiality and friendship between them.

The other imputation of Colonel Stuart's courting Lord Pigot's favour, will be found equally unjust and injurious.

Instead of Colonel Stuart's courting Lord Pigot, for the command of the army, it has already been shewn that he declined that command in July 1776, when Lord Pigot, wishing to get rid of Sir Robert Fletcher, offered the command in chief to Colonel Stuart, then second in command; from that time till the 23d of August there was no intercourse between Lord Pigot and Colonel Stuart, nor were they in any habits of friendship or intimacy.

With respect to the transactions and conferences between them on the 23d and 24th of August, they exhibit an uncommon and singular scene, in which there appears something very different indeed from Colonel Stuart's attempting to insinuate himself into the good graces of Lord Pigot and his friends. Instead of Colonel Stuart's courting Lord Pigot, it is evident that Lord Pigot was courting Colonel Stuart; sensible of
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the importance of gaining him over to their interests, Lord Pigot and his friends were at that very time not only endeavouring to persuade him to act as Commander in Chief, but using every effort and address to obtain from him some express or implied acknowledgment that he had accepted of that command; while he, on the other hand, thus beset, was very much puzzled how to avoid this proffered honour, and at the same time not to divulge the secret of the orders he had received from the Majority of Council, which he thought himself indispensably and conscientiously bound to obey.

Colonel Stuart's presence at the supper on the evening of the 23d, and at the breakfast and dinner on the 24th, at Lord Pigot's house, have also been converted into charges against him.—They happened merely as the accidental and natural consequences of the intercourse which was brought on in the course of these two days, at Lord Pigot's desire, that he might have a more favourable opportunity of using every effort to prevail on Colonel Stuart to accept the command in chief.

Had it not been for this circumstance, Colonel Stuart, who had not dined or supped with Lord Pigot during several weeks, and who, in that interval, had met with no new inducements to increase his desire of intruding upon his Lordship at his convivial hours, would certainly not have partaken of his repasts on the 23d and 24th of August, and it is now well ascertained that he did not intrude himself, but *was invited*; and particularly it appears, that when he accepted of Lord Pigot's invitation to sup with him on the 23d, he (Colonel Stuart) added this condition to the acceptance of the invitation, "that there should be nothing of business talked of."

As to the dinner on the 24th, whether Colonel Stuart invited himself, or was invited, though the fact is, that he went there by invitation, it is really of little consequence; for at Madras it is customary for the officers, and in general for every person in a certain rank, to dine with the Governor, who keeps an open table; and the partakers of the dinner

dinner are so very numerous that it is no mark of particular intimacy or friendship for a man either to be invited, or to come uninvited upon such occasions.

With regard to the proposed supper at the Garden-house on the evening of the 24th, which did not take place, it was at first positively asserted in this country, that Colonel Stuart had invited himself to that supper, and much emphasis was put upon that, as well as upon the other supposed selfinvitations; but it has since appeared from Lord Pigot's own letter to the Directors, dated the 3d of September 1776, that the invitation came from his Lordship, whose words in that letter are: "After dinner I invited him to supper at the Company's Garden-house, which invitation he accepted."

That you may perceive the authority I have for contradicting the assertions, not only with respect to Colonel Stuart's intruding himself upon Lord Pigot at his convivial hours, but also as to his being on terms of intimacy or friendship with his Lordship about the time of the arrest, I beg leave to insert the paragraph of a letter which I received from Colonel Stuart, of so old a date as 13th December 1776. It is in these words:

"It has likewise been given out by my enemies, that I was at the
"time in the greatest habits of intimacy with him (Lord Pigot), and
"approved of his measures. The fact is directly the contrary; for
"we had not been on speaking terms for a very considerable time be-
"fore, and I had not dined at his house from the latter end of June
"until the 24th of August, that he asked me to dine, as is usually the
"case when any one breakfasts with the Governor, and the occasion
"of my breakfasting was the delivering a letter of which I sent you a
"copy."

It remains now to state what relates to the fact of Colonel Stuart's accompanying Lord Pigot in the chaise to the place of arrest; separated from those misrepresentations concerning his friendship and intimacy with Lord Pigot, which have hitherto constantly attended the mention of that fact.

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It was on the 23d of August that Colonel Stuart received the orders from the Majority of Council, to put them in possession of the fortress and garrison of Fort St. George, and to arrest Lord Pigot. Colonel Stuart accordingly took his measures for seizing the fortress, and for arresting the person of Lord Pigot, even in the Fort, if it could not be otherwise accomplished; but he foresaw that this might be attended with very disagreeable and fatal consequences.

It therefore became a most natural and meritorious wish, on Colonel Stuart's part, that the most effectual means should be used to avoid these consequences; there was little time left for deliberation, nor could the matter be allowed to hang over in suspense, in expectation of any accidental opportunities of arresting Lord Pigot's person in a private manner, for the secret of the orders signed by the seven Members of the Majority was already in many hands.

On the 24th of August, Colonel Stuart having learnt that Lord Pigot intended to sup that evening at the Company's Garden-house, it occurred, that this was an opportunity not to be neglected; and that it afforded the best, if not the only chance of arresting Lord Pigot in a private manner, without tumult or bloodshed. It was therefore resolved, that Lord Pigot's carriage should be stopped, and his person secured, when on the road from Madras to the Garden-house.

The execution of the plan was intrusted to three officers of distinguished rank and merit in the Company's service, Colonel Eidington, the Adjutant-General, Captain Lysaght, commanding officer of a battalion of Sepoys, and Major Horne, who commanded the artillery at the Mount; and their instructions were, to conduct Lord Pigot to Major Horne's house at the Mount, there to be under the charge of that officer, and to be treated with every possible mark of personal attention and respect.

The place where Lord Pigot was to be arrested was very near both to the Fort and town of Madras, and to the Sepoy guard at the Garden-house. The total distance from the Fort to the Garden-house

is somewhat less than a mile, and the place chosen for the arrest was not three quarters of a mile from the Fort, and not 200 yards distant from the barracks of the Governor's guard at the Garden-house, which is the place of his residence, and where there is always a considerable part of a battalion of Sepoys for the Governor's guard. In these circumstances it was not easy to foresee what incidents might possibly arise to obstruct or prevent the arrest in the event of Lord Pigot's making resistance, nor was it easy to guard against the fatal consequences that might be produced by a scuffle ensuing, where an alarm might so speedily be spread.

Colonel Stuart having given positive orders to Colonel Eidington and Captain Lyfaught, to arrest Lord Pigot that evening, these officers would have thought themselves peremptorily bound in all events to have obeyed these orders; nor could they have taken it upon them, if their commanding officer was not present, to vary the orders, or the execution of them, as circumstances might require.—This was one strong inducement to Colonel Stuart to be present, and for that purpose to accompany Lord Pigot in the chaise that evening;—Colonel Stuart being the commanding officer, who had given the orders, he was the only person who could adapt the execution of them to the exigency of such circumstances as might occur; for, in critical affairs of this nature, it often happens that unexpected circumstances beyond the reach of human foresight arise in a moment, sufficient to baffle the best concerted plan, unless the remedy be as instantly applied.

It occurred also to Colonel Stuart, that his being in the same chaise with Lord Pigot, would more easily prevent the confusion which would probably take place from his Lordship's attempting to drive his horses past the officers who were ordered to arrest him, and who were on foot, and in the event of a scuffle might very probably have fired into the chaise.

No situation can be imagined in which more reasons could concur, for studying every precaution that could possibly tend to prevent any alarm, struggle, or confusion; for if the plan of arrest had failed

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in the execution that night, *the very attempt*, whether defeated by resistance and the loss of lives, or by Lord Pigot's escaping from those who had been ordered to arrest him, must have been productive of the greatest confusion, and have involved the settlement in all the horrors of a civil war.

In short, it appeared to Colonel Stuart at that time, and he still continues of the same opinion, that it would have been unpardonable in him in his situation to suffer the apprehension of the commentaries which malice, or mistake, might suggest, to have outweighed the importance of the various objects and motives of a public nature, as well as the considerations of humanity for Lord Pigot himself, and for others, which concurred to excite him to this step of attending his Lordship in the chaise to the place of arrest.

If the events subsequent to the arrest had shewn that Lord Pigot, by Colonel Stuart's attending him in the chaise, had been brought into a snare which would not otherwise have happened;—if the object of it had been to affect his life, or even to expose him to more personal injury;—or if it had appeared that Colonel Stuart could have been actuated to this particular mode by sinister views or motives of self-interest, and was to receive any personal benefits from accomplishing the arrest in this manner; in all or either of these cases, Colonel Stuart admits that the circumstance of his attending Lord Pigot in the chaise ought to be viewed in a very exceptionable light, and to receive every unfavourable interpretation which either has been, or can be bestowed upon it.

But he apprehends that the reverse of all these injurious suppositions have been established beyond the possibility of doubt.

I shall here beg leave to transcribe the paragraph of a letter dated the 14th of September 1777, which I received a considerable time ago from my Brother, the original of which is at your command; and what I am now to transcribe, will serve also for the purpose of refuting the very unjust imputation endeavoured to be fixed upon Co-

Colonel Stuart's character, by those who pretended to believe, or attempted to persuade others, that in the moment of the arrest, Colonel Stuart, by his expressions and manner, had behaved harshly and even brutally to Lord Pigot.

The paragraph is in these words :

" I again and again repeat, that no other way than what I followed, suggested from the most tender regard to humanity, and to the safety of Lord Pigot's own life, could have effected this arrest without confusion or bloodshed. In the letter I wrote several weeks ago, I have entered particularly into the mode of my seizing Lord Pigot, in answer to the paper printed here; I shall here add, and declare the same before God, that not an uncivil or improper word fell from my mouth on that occasion. When the Adjutant-general stopped the chaise, in which I was along with Lord Pigot, he (Lord Pigot) made a short pause, and was looking about him; we were then in the middle of the road, at a very small distance from the Sepoy-guard at his Garden-house, and many servants round the chaise, and many people passing in the road.—The moment was critical, not only because the least noise extraordinary would have alarmed, but what is particular, as the reins were in his hands, and the horses very spirited, he might have forced them on, in spite of me, and the certain consequence would have been his getting home; and myself, with all the officers or others, who, with me, thought it our duty, to obey the Majority as the legal government, must have been dismissed the service, or tried for our lives. This led me, on observing a kind of hesitation to obey on the part of Lord Pigot, forthwith to seize the reins with one hand, and put my other hand to his arm: to the best of my recollection, the precise words I made use of were, "*My Lord, you must go out.*" They were uttered, not in a brutal or contemptuous tone of voice, but with the tone of respect as well as anxiety.—Lord Pigot then instantly went out, without my saying one word more, or his making any answer."

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In another letter, wrote by my Brother to me from Tanjore, in May 1777, there are the following paragraphs on the subject of Lord Pigot's arrest:

" I chose to obey; what I judged from common sense, and what the
 " Governor-general and Council has since established to be, the only legal government. I have said that it was at a great risque that I did this;
 " because every thing that has happened to me would have come to me
 " in course, and by the Company's orders, without any risque at all, had
 " I feigned sickness, or remained an unconcerned spectator; but in
 " truth, I lost my health, and gained nothing in other respects by the
 " change, except the satisfaction of having done my duty; and thereby, I hope, deterred others from innovating or overturning the established law or constitution of Government.

" I know the personal reflections of my enemies upon the occasion;
 " but as it can never be said that personal fear or apprehension induced me (under the appearance of going to his, Lord Pigot's, country-house) to have a place in the chaise with him, and to make that an essential part of my plan; I observe, that as that cannot be asserted with respect to me, who had the army under my absolute command, and who had actually given my orders to take him by force from the Fort, or wherever he was, had no opportunity offered of my going in the chaise with him, the unprejudiced Public, in judging of this act, will, I hope, therefore, do me the justice to infer, that it was from motives of humanity, to prevent bloodshed and public disaster, and for the personal safety of Lord Pigot."

I shall conclude what relates to this subject, by barely mentioning the strong and marked approbation, which the whole of Colonel Stuart's conduct, at that difficult crisis, received from the Governor-general, the Commander in Chief, and Supreme Council in Bengal, to whom a superintending power over all the Company's settlements in India, both in matters civil and military, was delegated by the authority of Parliament.

That Supreme Council had the best opportunities of being particularly and impartially informed of all the facts, and circumstances, which gave occasion to, which preceded and accompanied the arrest of Lord Pigot, and after receiving the fullest information from both parties, and from Lord Pigot himself, they gave their complete approbation, not only of the resolution taken by the Majority of Council at Madras, of asserting their rights, and assuming the government, but of the mode in which that resolution had been executed.

The letters of Sir John Clavering, of the 15th, and of Governor Hastings, of the 18th of September 1776, which were published when these disputes were recent in this country, prove that, besides a general approbation in Council, they both gave great credit to Colonel Stuart, for the mode in which the orders of the Majority of Council had been carried into execution; *without bloodshed, without tumult, and without the violation of one legal form.* These are the words of Governor Hastings' letter to Mr. Stratton, wherein he expresses himself in the strongest terms, considering it as a thing almost without example; and in the letter from Sir John Clavering to Colonel Stuart, of the 15th of September, there is not only an approbation of his conduct, but, in terms the most flattering, Sir John Clavering gives him applause for the *honour* of conducting *so difficult and dangerous a business*, and for the *spirit* and *magnanimity* with which he had executed it.

It is well known, that no man could possibly possess a higher sense of honour, as well as of propriety and delicacy of conduct, than the late Sir John Clavering; and when we see that such distinguished marks of approbation were bestowed by him upon Colonel Stuart, for the whole of his conduct, it ought at least to go a great way in counteracting the prejudices which have been so industriously spread, and to satisfy the world, that, in the mode of arresting Lord Pigot, and of carrying the orders of Council into execution, there had been nothing done that was in any degree improper or unbecoming the character of an officer and a gentleman; because, had it been otherwise, the strictness of Sir John Clavering's sentiments, and
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the nice delicacy of his feelings upon every point of honour, would have led him to be more forward than any one in his censure and disapprobation.

To confirm the weight due to the testimony of so respectable and honourable a man as Sir John Clavering, I can prove by letters in my possession, that after full information of what had passed at Madras, and after knowing the outcry raised against Colonel Stuart by one party, Sir John Clavering continued his approbation of Colonel Stuart's conduct, and honoured him with the most sincere friendship and confidential correspondence till the latest period of his life.

I am sensible, Gentlemen, that I require many apologies for taking up so much of your time in the discussion of what relates to the mode of arresting the person of Lord Pigot, and the circumstances immediately preceding; but I trust, that I shall meet with some indulgences, when it is considered how violently my Brother's character and conduct have been attacked on this point, and when it is also considered what severities and hardships he has experienced, in consequence of the imputations against him, made at a time when, from the distance of place, there was no opportunity of his being heard in his own defence.

All these severities I must place to the account of the rage and prejudices raised against him on account of the *mode of arrest*; because, independent of that, and of the circumstances immediately preceding it, the propriety of Colonel Stuart's conduct necessarily depends upon this very narrow point,—Whether he ought or ought not to have obeyed the order of the Majority of Council; and whichever way men might decide that point in their own minds, a mere error in judgment on Colonel Stuart's part, supposing it to have been an error, could not have produced the rage, prejudice, and obloquy, which have brought upon him such grievous severities and hardships.

*The punishments
and hardships
sustained by
Colonel Stuart,
in consequence of
the disturbances
at Madras.*

Having given so full an account of Colonel Stuart's conduct in consequence of the orders he had received from his Superiors, and having shewn the motives as well as the consequences of that conduct, I hope I may now be permitted to put the question, What crime has Colonel Stuart been guilty of towards you, Gentlemen, his Honourable Employers, or against the Interests of the East-India Company?

If the crime is to be judged of from the nature and extent of the punishments inflicted, it must have been a crime of great magnitude indeed, and such as could not easily be atoned for.—A short review, therefore, of the punishments and hardships he has suffered, becomes absolutely necessary, and will clearly evince the truth of this proposition.

In consequence of the first reports brought to England in the year 1777, of the transactions at Madras in August 1776, Colonel Stuart was suspended the Company's service for six months; the general letter which contained this order of suspension, was carried out by Mr. Whitehill, who arrived at Madras in August 1777; the order of suspension was immediately intimated to Colonel Stuart, who, by the death of Sir Robert Fletcher, in the month of December preceding, had attained the situation of Commander in Chief, and the rank of Brigadier-general in the Company's service; to both of which he succeeded in consequence of an agreement with the East-India Company before his departure for India.

Immediate obedience was given on the part of Colonel Stuart, to the will and pleasure of his Honourable Masters, and he was deprived of the command of the army, which, for many months preceding, he had been making every exertion to improve and to put on the most respectable footing.

Colonel Stuart was not only thus suspended without any trial, without any specific crime or charge being alleged against him in the order for suspension, but he was superseded in the command, by the appointment of another officer, Colonel Monro, who was sent from England on purpose to take the command of the army at Madras.

The supercession of Colonel Stuart by a younger, though a very deserving officer in his Majesty's service, was, according to the military *etiquette*, an additional circumstance of mortification, especially as the new Commander in Chief, Colonel Monro, obtained at once the rank of Major-general in the Company's service.

This supercession was not for a limited time; as General Monro's commission was unconditional and absolute, without reference to the result of any future inquiries or trials in relation to Colonel Stuart's conduct; so that he had before him the melancholy prospect of being *certainly* punished and degraded at all events, whether innocent or guilty: indeed, the only case that was at all in contemplation or provided for, was that of his being *guilty and deserving of punishment*; but no sort of provision was made, no care whatsoever was taken of him, in the event, that, upon inquiry or trial, he should be found to have been *innocent*, or to have *acted meritoriously* for the interests of the Company.

The general letter of the Company, sent by the Beſborough in July 1777, continued Colonel Stuart's suspension, and directed that his conduct should be examined into by a Court of Inquiry, and that he should be tried by a Court-martial; but in case he had been guilty of no military offence that was cognizable by Martial Law, then it was ordered that his suspension from the service, instead of being taken off, as one might reasonably expect, should be continued indefinitely, and without limitation of time.

Such are the directions which have been sent from this country with respect to Colonel Stuart; and it may be proper before stating what

what passed at Madras, in consequence of the latest of these directions, respecting the trial by a Court-martial, to mention some of the intermediate hardships which he suffered in India, by the means of vexatious suits, both of a Civil and of a Criminal nature, brought against him at Madras, in consequence of the transactions of the month of August 1776.

Upon the 14th of October 1776, a Bill was filed in the Mayor's Court at Madras, by Lord Pigot against Colonel Stuart, for damages, to the amount of 200,000 l., on account of the arrest of his person on the 24th of August: and his Lordship's Attorney having appeared and made affidavit, that he believed Colonel Stuart was about to withdraw himself from the jurisdiction of the Court, he therefore prayed that a warrant of arrest might be issued. Colonel Stuart having appeared by his Attorney, the Court, by a majority of five to four, ordered bail to be found to the extent of 15,000 l. which was dissented from by some of the Members as excessive.

At the same time, in October 1776, a Bill of complaint was filed in the Mayor's Court, by Mr. Ruffel, against Colonel Stuart, for damages, to the amount of 40,000 l., founded on his forcibly carrying Mr. Ruffel from the Parade to the Consultation-room, on the 24th of August, in the manner already related. Mr. Ruffel's Attorney having made a similar affidavit with Lord Pigot's Attorney, and prayed for a warrant to arrest Colonel Stuart, the Mayor's Court was pleased to order him to find bail in this action likewise, to the amount of 4000 l.

As the Mayor's Court was thought to be very partial in these proceedings, and that the amount of the bail thus ordered by them was, in the circumstances of the case, judged to be excessive, Colonel Stuart was advised to carry the cause immediately from that Court by appeal to the Governor and Council.

In his reasons of appeal he gave answers to the various articles contained in these Bills of complaint against him, and maintained that he was in no respect responsible for the measures which, as acting in obedience

obedience to the orders of his superiors, both civil and military, he had carried into execution, that it was therefore highly vexatious and oppressive to distress him by these suits, or by an order for bail so exorbitant and excessive, that it was even greater than what the same court had obliged the Commander in Chief, Sir Robert Fletcher, to find in a similar action brought by Lord Pigot against him, for the like sum of 200,000 *l.* damages.

Colonel Stuart further averred, that he had no intention of withdrawing himself from the jurisdiction of the court; and that, all circumstances considered, so far from being subjected to *excessive bail* in both these cases, he ought not to be put to the hardship and inconvenience of finding any bail in either.

With respect to Mr. Russel's action, Colonel Stuart gave this additional answer, that the situation in which he, Mr. Russel, was found, on the evening of the 24th of August, exciting the troops in the garrison to mutiny and sedition, which, if not instantly checked, might have been of very fatal consequences, had put Colonel Stuart under the absolute necessity of forcing Mr. Russel from the main-guard.

The matter was carried first from the Mayor's Court by these appeals to the Governor and Council, who declined taking any cognizance of it, as they had been parties interested in the business which gave rise to the actions. Colonel Stuart therefore afterwards appealed to the King and Council in England.

But these were not the only actions by which he was vexatiously and unnecessarily harassed for obeying the orders of his Superiors. He was one of those against whom the proceedings of the Coroner's Inquest, assembled at Madras upon the death of Lord Pigot, were directed.

That Inquest assembled at Madras on the 11th of May 1777, the day on which Lord Pigot died, and continued their examinations and deliberations from that time till the 7th of August 1777; when, in the fervency of their zeal, they were pleased to pronounce one of the most notable and extraordinary verdicts, that in such or any other circumstances has appeared in the records of this or of any other country.

Mr. Ram, the Coroner, and his Inquest, pronounced and declared,
 " That *George Stratton, Henry Brooke, Charles Floyer, Archdale*
 " *Palmer, Francis Jourdain, and George Mackie*, in the civil ser-
 " vice of the East-India Company at Madras, and *Brigadier-general*
 " *Sir Robert Fletcher, Colonel James Stuart, Lieutenant-colonel James*
 " *Eidington, Adjutant-general, and Captain Arthur Lyssaught*, in the
 " said Company's service at Madras, and *Major Matthew Horne*, com-
 " manding the corps of artillery in the said Company's service, then
 " stationed at St. Thomas's Mount, did, in manner and by means
 " therein recited, *feloniously, voluntarily, and of their malice fore-*
 " *thought, kill and murder* the said George Lord Pigot; and that a
 " *serjeant and sepoy*s therein described, and *certain officers and soldiers*
 " *belonging to the corps of artillery, and another serjeant and other se-*
 " *poys* stationed at the Garden-house, all of whom were to the Jurors
 " as yet unknown, were at divers times present, aiding, abetting, as-
 " sisting, and maintaining the said George Stratton, Sir Robert
 " Fletcher, and the other persons before named, to do and commit
 " the felony and murder aforesaid."

What makes this verdict the more remarkable is, that it was not alleged, nor was there the most distant suspicion of any sort in India, that Lord Pigot had died an unnatural death, or that any means had been used with a view of occasioning his death; on the contrary, the physicians who attended his Lordship during his illness, declared upon oath, that *disease* was the immediate cause of Lord Pigot's death, and that the *disease* was a *putrid bilious fever*, originating in a disordered liver.

In the course of the evidence it also came out, that, to all outward appearance, Lord Pigot enjoyed an uninterrupted state of good health, from the day of his arrival at the Mount, after his arrest on the 24th August 1776, until the beginning of March 1777, about which time the appearance of his bilious fever first began, of which first illness, with the assistance of Doctor Pasley, his Lordship recovered in a great degree; but not having afterwards taken sufficient care of himself, he had a relapse, which carried him off on the 11th of May 1777.

Here

Here it is well worth observing, that during the whole period of Lord Pigot's illness, and at the time of his death, Colonel Stuart was absent from the Presidency of Madras, at the distance of some hundred miles from his Lordship; as he went to Tanjore, on the 11th of February 1777, at which time Lord Pigot was known to have been in perfect health, and did not return to Madras until the end of June that year.

Nevertheless Mr. Ram, and his Inquest, thought proper to pronounce a verdict of *wilful murder*, against Colonel Stuart, and the other Gentlemen, founded on artificial and metaphysical reasonings (delivered upon oath), from which they wished to establish a belief, that the arrest of Lord Pigot, on the 24th of August 1776, and the agitation of his mind on that and subsequent occasions, had, by the imperceptible influences of the mind upon the body, generated the disease of which his Lordship died in the month of May 1777.

The whole proceedings of that Inquest, and the evidence laid before them, together with Colonel Stuart's defence, drawn up by himself, in answer to the accusations brought against him, have been lately printed and published; and I believe I may venture to say, that every impartial man of sound judgment, who reads that publication, will be of opinion, that nothing could be more unjustifiable, and reprehensible, than the conduct of that Coroner and his Inquest; the absurdity of it would deserve only to be laughed at, if such an attempt against the lives and reputations of a number of persons of rank and character could be viewed without abhorrence and indignation.

Vexatious, contemptible, and ill-founded as these proceedings were, they had however the unavoidable effect of harassing Colonel Stuart exceedingly; they subjected him to a degree of public affront and opprobrium, from his being exposed to the imputation of *wilful murder*, by the verdict of twelve men upon oath, six of whom however, at one time, voted that it was only *manslaughter*, while the other six declared it *murder*; upon which the Coroner was pleased to remark, That *the matter must be re-considered*, and he afterwards prevailed on a Majority of them to agree in opinion that it was *wilful murder*.

This verdict was, upon the 24th September 1777, sent by the Coroner to the Governor and Council of Madras, with a request from the Coroner, to be assisted in apprehending the persons therein accused; upon which the Governor thought it regular for him at that time to sign a warrant of commitment against Colonel Stuart, and the other persons accused, directed to the Sheriff of Madras.

Colonel Stuart and the other Gentlemen were accordingly in the custody of the Sheriff until some time in October following, when the Justices, after having examined Sir Edward Hughes and some other respectable witnesses, judged it proper to admit the prisoners to bail, in the sum of 10,000 l. each.

The proceedings and the examinations before the Justices were continued until the end of November 1777, when the Justices received from Bengal the opinions of the Judges of the Supreme Court of Judicature there, by which these Judges, upon consideration of the facts, and of the proofs stated in Mr. Ram's inquisition, declared their unanimous opinion, that there were not materials sufficient for an indictment either of *murder* or *manslaughter*, and they also, from other defects and irregularities in that inquisition, gave their opinion, that it might be quashed or set aside.

In conformity with this opinion received from the Judges of the Supreme Court of Judicature in Bengal, the Justices at Madras, upon the 26th of November 1777, declared, " That the said proceedings were " irregular, and contrary to law. And resolved, that the whole be " quashed and set aside, and that the persons accused be discharged " by proclamation."

Thus ended the malevolent and irregular proceedings of the Coroner's Inquest; from the short state of which it must appear, that Colonel Stuart, was for many months (during which time too he was in a bad state of health from the consequences of a bilious fever), very unjustifiably harassed by the charge brought and verdict given against him, and by having his name and character exposed as guilty of so heinous a crime.

Amidst

Amidst all these distresses, however, one consolation still remained, Colonel Stuart comforted himself with the prospect that he should soon have an opportunity of vindicating his character and conduct in the course of a *regular trial*; when not only the orders under which he acted, but when likewise all the facts and circumstances would be ascertained by unquestionable evidence, and then he flattered himself, that the prejudices which had been raised against him would take an opposite direction, and that he should meet with the redress due to an injured officer.

In this expectation, of a speedy trial, and consequent redress, he has also been disappointed; for the orders which were carried out by the Besborough for his trial by a Court-martial have not hitherto produced any effect. That trial, which he so ardently wished for the vindication of his honour and character, has been denied him, by the Commander in Chief, and by the President and Council of Madras; at the same time his suspension has been continued, and he remains in that country waiting with impatience the return of the dispatches sent from Madras in the month of March last.

It is not my intention to impute blame either to the Commander in Chief or to the President and Council of Madras, for the part they took in refusing to Colonel Stuart his trial by a Court-martial; they have acted, no doubt, upon grounds which afforded conviction to their minds, and it is well worth observing that this refusal was founded on opinions which were very far from containing any thing unfavourable to Colonel Stuart's conduct, but the very reverse, for as far as they go they may be considered as presumptive proofs of his innocence, at least of his having committed no offence that was cognizable by martial law.

Their General Letter to the Court of Directors, dated the 14th of March last, shews how anxiously Colonel Stuart courted the opportunity of vindicating his conduct by a public trial. Paragraph 14th of that letter is in these words:

“ General Stuart, as soon as he was furnished with a copy of
 “ your Orders, and before we came to any resolution concerning
 “ him,

" him, addressed three letters to us, all of them pressing upon
 " us, in the most anxious manner, his desire to be tried by a Court-
 " martial; and fearing lest any doubts or difficulties should occur to
 " us on the subject, he introduced several arguments to shew his right
 " to demand a Court-martial, and pointed out different articles in the
 " Articles of War by which he thought he might be tried. Although
 " his letters did not contain any reasons of sufficient strength to in-
 " duce us to alter our opinions upon his case, yet the uneasiness of
 " mind expressed in them was such, that we felt much concern for
 " the peculiar circumstances of his situation."

The reasons which induced the President and Council and Com-
 mander in Chief at Madras to refuse the trial by a Court-martial ap-
 pear to have been founded upon prudential grounds, and upon a doubt
 whether a Court-martial were competent to decide upon a case which
 involved questions of nice discussion relative to the Company's consti-
 tutional government. This is expressed very clearly in the 10th para-
 graph of their General Letter above mentioned, which is in these words:

" The acts of arresting and imprisoning the person of the late Lord
 " Pigot were sufficiently clear; your disapprobation of those acts is
 " strongly expressed in your late orders; but that disapprobation does
 " not make them offensive in the eye of martial law, and no charge
 " could be grounded upon it. In order to determine whether General
 " Stuart's conduct be criminal in that view, and before any charge
 " could be prepared, it became requisite to consider the nature of the
 " orders and authority under which he acted, with other particular
 " circumstances attending the arrest of Lord Pigot. The Company's
 " records, and General Stuart's own Narrative of the transaction, clear-
 " ly shew, that his Lordship was arrested by an order under the sig-
 " nature of George Stratton Esquire, Sir Robert Fletcher, Henry
 " Brooke, Charles Floyer, Archdale Palmer, Francis Jourdain, and
 " George Mackie, Esquires; which order General Stuart in the Narra-
 " tive declares he considered as legal, and the Gentlemen who issued
 " it the legal Representatives of the Company. *General Stuart appears*

“ to have done nothing in this transaction independent of that authority
 “ which gave him the order. If that authority were clearly illegal,
 “ or the order illegal, the arrest and imprisonment of Lord Pigot by
 “ military force, may be deemed an act of mutiny, and the persons con-
 “ cerned liable to be tried by an express article of war; but we own to
 “ you, these questions appear to us to be of so nice and important a nature,
 “ that we did not think ourselves competent to form a judgment upon
 “ them, with that precision which was necessary to constitute and
 “ maintain a charge against an officer for a crime deemed capital by
 “ Martial Law. It is true, indeed, that in the first paragraph of
 “ your Letter, dated the 11th of June last, you were pleased to ex-
 “ press yourselves in very strong terms of the arrest and imprisonment
 “ of the late Lord Pigot; calling it “ a total subversion of your legal
 “ government.” Yet, when we consider the doubts expressed in the
 “ 53d paragraph of your Letter of the 4th of July, we could not but
 “ be of opinion, that they must in some degree have arisen from doubts
 “ concerning the legal authority and orders by which the arrest was
 “ executed; and under the influence of this opinion, we thought it
 “ would not only be presumptuous but imprudent, and even danger-
 “ ous, for us, upon the authority of our own judgment, to found a
 “ crime which might touch the life, character, or fortune of any
 “ man; and that even if we had gone so far as to have prepared a
 “ charge, and delivered it to a Court-martial, it might admit of great
 “ doubt, whether a Court of that nature were competent to decide
 “ upon a case, which involved questions relative to the Company’s
 “ constitutional government, so nice and intricate as those which have
 “ been before mentioned.”

I cannot help observing here, that the whole tenor of the above para-
 graph indicates the opinion of the Governor and Council of Madras to
 be, that Colonel Stuart’s innocence or guilt depends totally on the *lega-*
lity or *illegality* of the orders he received; an opinion which I can-
 not entirely acquiesce in,—but which nevertheless makes it sufficiently
 evident that, when upon the spot, they did not see his conduct, as to the

“ mode

mode of the arrest and the circumstances preceding it, in the light they have been represented in this country; for they say expressly, that Colonel Stuart *appears to have done nothing in this transaction independent of that authority which gave him the orders*; they doubtless would have expressed themselves in another manner, if they had found any misconduct in the execution.

The correspondence and papers which passed upon this occasion between the Governor and Council of Madras and Colonel Stuart, in the months of February and March last, have, as I understand, been all sent home to you; I shall therefore beg leave to refer to them as containing his reasons, stated at great length, why he thought that, notwithstanding the difficulties pointed out by the Governor and Council, and by General Monro the Commander in Chief, still he was entitled to expect, and even had a right to demand, that, in the peculiar circumstances of his case, the door of trial by a Court-martial should be thrown open to him, and every possible indulgence granted for facilitating to him the means of redress.

At the time when Colonel Stuart gave in to the Board at Madras, the papers wherein he so earnestly contended for his trial, he was ignorant of one additional misfortune, of a very serious nature, brought upon him in consequence of the order from the Directors of the Honourable Company appointing him to be tried by a Court-martial; had he known it, that consequential misfortune would have added greatly to the weight of those which preceded, and if possible have increased the zeal of his remonstrances upon the hardship of refusing or delaying that trial.

The disappointment which Colonel Stuart, in the course of last year, met with, in relation to his preferment in his Majesty's service, is what I allude to.

Subsequent to the orders for a Court-martial, which you were pleased to send out to Madras by the Besborough, in July 1777, a very extensive

tenfive promotion of officers in his Majesty's service took place in the month of September of that year; by which a great number of Lieutenant-colonels attained the rank of Colonel in the King's service.

Colonel Stuart, who had been a Lieutenant-colonel in his Majesty's service since the year 1762, was very near the head of the list of those Lieutenant-colonels who were to acquire rank from this promotion; but it is a rule with his Majesty's servants in that department, that an officer under orders for trial by a Court-martial is not to be promoted till the event of such trial is known. It was thought therefore that Colonel Stuart could not, with propriety, be included in the general promotion which at that time took place, until the issue of that trial, ordered by the Directors, was known: the consequence was, that he was passed over in that promotion, and thirty-two Lieutenant-colonels, younger in the service than Colonel Stuart, obtained the rank of Colonel, notwithstanding that Colonel Stuart's merit and services were universally allowed to entitle him to that preferment.

Thus, by a complication of peculiar hard fate and misfortunes, the obedience which Colonel Stuart had given in the month of August 1776, to the orders of his Superiors both civil and military, produced—first his suspension from the Honourable Company's service for six months,—then his supercession in the command of the army in the Carnatic,—then an order for his trial by a Court-martial,—which order produced the measure of denying to him the rank of Colonel in the King's service, at a time of general promotion;—and lastly, he meets with a refusal of that trial, which if it had taken place, Colonel Stuart is confident, would have remedied not only this hardship in the King's service, but likewise the other evils of which he has so much reason to complain.

That you may perceive, Gentlemen, that there is nothing exaggerated in the account I have here given of the severe disappointment my Brother and his friends met with at the time of the general promotion of Officers in his Majesty's service last year; and that this disappointment was occasioned by the order you had given for his trial by a

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Court-

Court-martial, I beg leave to annex the whole of the correspondence on this subject, which passed between Lord Barrington, the Secretary at War, and me, in the months of September and October 1777.

In that correspondence you will observe, that it is not on account of any opinion, formed by his Majesty's servants of Colonel Stuart's having acted improperly in India, that he was passed over in the King's service; but that it was occasioned from *etiquette*, by the *orders for his trial*, and which was to be afterwards remedied, if the result of the trial should be in his favour. The expressions in Lord Barrington's letter to me of the 3d of September 1777, are, "That full and perfect justice will be done to him (Colonel Stuart) hereafter, if his conduct in India resembles the rest of his conduct through life."

His Lordship was afterwards pleased to explain the matter further, and to mention to me various instances, where officers of good reputation, who were liable to be tried by a Court-martial, at a time when a general promotion took place, which they would otherwise have been entitled to the benefit of, were denied that promotion until the decision of the Court-martial, after which their rank was allowed to them in the same manner as if they had not been passed over.

Although I was fully persuaded that it was no part of the wish or intention of the East-India Company, that the hardships which they had inflicted, should be productive of any additional evil to Colonel Stuart, in any other line than their own service; yet I have hitherto abstained from giving you any trouble or representations about these consequential unintended hardships; nor should I have mentioned them at this time, or presumed to give you the trouble of reading the correspondence between the Secretary at War and me upon this subject, if it had not now become unavoidably necessary, for two reasons.

One is, that I find false reports have been spread about the manner and occasion of my Brother's being passed over in the promotion of last year in his Majesty's service; it has been stated as a proof of his guilt,
and

and the turn given to it in many quarters is, that his Majesty's servants, upon being fully apprised of all the circumstances of Colonel Stuart's conduct in the disturbances at Madras, had formed such a decided opinion, that his preferment in the King's service was now absolutely and unconditionally stopped.

The other reason is, that you, Gentlemen, from the perusal of that correspondence with the Secretary at War, may not only be informed of the true state of the case, but likewise may perceive the great supervenient hardships which he has suffered, though not intentionally, by the late refusal or delay of his trial by a Court-martial.

It is not with a view to find fault, nor in the spirit of complaint or ill-humour, that I have taken up so much of your time in stating the various hardships that have been heaped upon my Brother in consequence of the unfortunate disturbances at Madras, but merely that the nature of his conduct and the extent of his sufferings, should be brought under your consideration, more precisely, and with less mixture of foreign matter than they have ever hitherto been.

So far am I from stating his case merely with a view of imputing blame, that I am ready fairly to acknowledge, that when the accounts first came to this country of the disturbances at Madras, with all the circumstances *said* to have attended it; and when it was not foreseen to how much greater length these convulsions might proceed, and what the consequences might be to the peace and security of the Settlement; I say, upon that occasion, it was extremely natural, not only to feel a degree of prejudice and displeasure at what had happened, but to be alarmed for the future consequences, and to endeavour to avert them, by marking a disapprobation of the seemingly violent and improper conduct of all the actors in the late disturbances.

*The motives and
objects of the
present applica-
tion.*

It was a difficult task for you, Gentlemen, amidst the rage and animosity which actuated the minds and influenced the representations of the opposite parties, to discriminate the guilty from the innocent, or to ascertain the different degrees of offence which had been committed by your servants in that Settlement; neither was it possible for you to pronounce any judgment, or to pursue any general measure, that would be satisfactory to all parties.

Perhaps, indeed, the steps you did pursue on that difficult occasion were, upon the whole, as little exceptionable, and had as many probable appearances of being well calculated for establishing peace in your Settlement, and to prevent the growth of further evils, as any that could have been devised in the circumstances in which you were placed; and there is this strong presumption in favour of the wisdom and impartiality of your measures, that countenancing the extremes of neither party, they were in some degree unacceptable to both.

But give me leave, Gentlemen, to observe, that the very same conduct, which, with a view and upon a plan of prevention, may properly be adopted at a particular crisis of public confusion, and while there is yet an uncertainty to what issue that confusion is to lead, may and ought to be very different from those measures which should be taken with regard to offences already past, and where the whole extent of the mischief has been already ascertained; when the latter is the case, there is room for taking into consideration the exact measure and proportion of each man's offence or merit, and it is a matter of justice to give redress to those, who, though unavoidably involved in the general hardships incident to individuals upon public disturbances, shall be found, either to have suffered far beyond the magnitude of their offences, to have been innocent, or perhaps highly meritorious.

It is to this consideration, Gentlemen, that, with your permission, I wish to conduct your attention; for the Madras disturbances are now and have been long at an end, the period is arrived, which not only admits but loudly calls for, the discrimination of every man's conduct,

duct, and for proportioning the punishment or redress that is due to him.

During many months after the arrival of the first accounts of the Madras disturbances, which reached England in the month of March 1777, there was an extensive field opened for men of warm imaginations to alarm themselves and the Public, by painting scenes of horror, anarchy, and confusion, which were to be the infallible consequences of the steps taken by the Majority of Council, and by Colonel Stuart, in the month of August 1776.

We must all remember the dismal predictions which were made in the General Courts of Proprietors, and circulated in the Public at large, with a degree of confidence little short of certainty.

The prophets and orators of those times affected to dread the arrival of any ship, or other means of intelligence, from India, because they seemed persuaded, that we should soon have the melancholy accounts of many lives lost, and of complete anarchy and confusion from one end of the Carnatic to the other.

The Princes or Powers of that part of India, either with or without the assistance of the French, were to take advantage of those confusions, and to subdue or expel us from the country; the Nabob of Arcot, at least, after getting rid of Lord Pigot, his most formidable opposer, and the controller of his views, would undoubtedly establish his own power and independency upon the overthrow of the British dominion in the Carnatic; and there could be no danger of the Nabob's being thwarted in his attempts by those corrupted and seditious counsellors, whom he had instigated to such violent proceedings against Lord Pigot, and who were totally at the devotion of this Mahommedan Prince.

Above all, it was perfectly clear, according to those predictions, that Colonel Stuart, who had taken so active a part in the arrest of Lord Pigot, by military force, and who had the army totally at his devotion, would find out a better interest to cultivate, than that

of his Honourable Employers, the East India Company; and that he meant *to set up for himself* in that part of the world, and would either laugh at any orders that should be sent from the India-House, to deprive him of his power, or would oppose force by force.

Such were the gloomy predictions, and it was in vain to argue against them in whole or in part;— but the period has long been closed within which these prophecies were to have been fulfilled, and what has *really* happened within that period, is so totally unlike every thing which disturbed the imaginations of some too credulous Proprietors, that it will hardly be believed that such unfaithful pictures could ever have been drawn of Colonel Stuart, and of the events which were to be produced by his conduct.

Instead of confusion and civil war, there never was a more settled state of quiet and tranquillity.—Instead of resistance on the part of Colonel Stuart, and *setting up for himself*, there has been the most uniform and implicit obedience to the orders of his superiors.

When Mr. Whitehill arrived at Madras, in the month of August 1777, with the new commission of government, and with your directions, by which Mr. Stratton and the other Gentlemen of Council were called home, and by which Colonel Stuart, the Commander in Chief of the army, was suspended and superceded; he was the first person who accompanied Mr. Whitehill to the parade, was present at reading the new commission of government, and of the order for his own suspension.

Upon that occasion, he openly and immediately declared his resolution to obey the orders of his Honourable Masters, however hard they might be on himself, and declared that he wished, and did not doubt, that every other person affected by these orders, would be in the same disposition.

On this subject there is the following paragraph of a letter from Mr. Whitehill the Governor, and the Council at Madras, to the Supreme Council at Bengal, extracted from the Minutes of Consultation of the 31st of August 1777.

“ They think it also necessary to observe, with respect to Brigadier-general Stuart, whose situation in the late transactions *was peculiar*, that he shewed the same implicit obedience on his part to the authority of the Company, attended on the parade at the reading of the Company’s commission of government to the troops, and was studious, by his whole conduct, to shew to the officers and soldiers, the proper sense which he entertained of the Company’s orders.”

Upon a subsequent occasion, in September 1777, when Mr. Ram, the Coroner at Madras, in consequence of his extraordinary verdict already mentioned, applied to the Governor and Council to be assisted in apprehending Colonel Stuart, and the other persons who had by that unjustifiable verdict been accused of the wilful murder of Lord Pigot; Colonel Stuart, Mr. Stratton, and the other persons accused, voluntarily delivered themselves up to the custody of the Sheriffs, and declared they were willing and desirous to undergo every sort of trial that the laws of their country could authorize.

Another instance of the same spirit of good order and obedience on the part of Colonel Stuart, and the other Gentlemen who concurred with him, appeared in the month of January in this present year, and is set forth in three letters which passed between them and the Governor and Council, which are printed at the close of the Collection of Authentic Papers lately published, relating to the proceedings of the Coroner’s Inquest. As they are too long to be inserted here, I shall only beg leave, in confirmation of what has been mentioned, to insert a part of the letters to you from the Governor and Council of Madras, received by the Houghton in August last; it is in these words:

“ It is a justice, however, that we particularly owe to the Members of the late government, to observe to your Honours, *that their leading example in shewing the most implicit submission to your orders for establishing your new administration, has been of the greatest use in restoring that harmony and good understanding we have just spoken of.*

“ But

“ But besides the general tenor of their behaviour as individuals,
 “ of which we have been eye-witnesses, we beg leave to refer you to
 “ the letter signed by General Stuart, Messrs. Mackay, Palmer, and
 “ Floyer, and to the answer which we thought proper to make to these
 “ Gentlemen; who, for the peace of the settlement, and with a view
 “ to the welfare of your affairs, have agreed to wave the agitation of
 “ questions at this time, which must necessarily have taken our atten-
 “ tion from the immediate business of your government.”

Such has been the conduct of Colonel Stuart, regulated by the most sincere attachment to good order, and to the prosperity of your affairs, and proved by the most unquestionable evidence. As it has been so fully laid before you, it would be needless, and therefore impertinent to make the obvious inferences, by pointing out, and observing upon the many false and injurious representations, which have been circulated to Colonel Stuart's prejudice.

*The redress due
 to Colonel
 Stuart, and the
 modes by which
 it may be accom-
 plished.*

Now that the scene is closed with respect to the course of events at Madras, connected with, or following the disturbances of the month of August 1776, when you are satisfied, that none of the many predicted mischiefs have happened; on the contrary, that without confusion of any sort, both the temporary government of Mr. Whitehill and his Council, and the completely established government of Mr. Rumbold, and the Council which now manages your affairs at Madras, have taken place, and with the most complete submission and obedience to your orders on the part of Colonel Stuart; may I not be permitted, with a degree of confidence, to maintain, that this is the proper time to take into consideration, all the particulars of his case, so very peculiarly circumstanced.

If

If it shall now appear to you, that Colonel Stuart has either not been guilty of any offence, or rather, if it shall appear, as I flatter myself it must, upon a dispassionate review of his conduct, that the person exposed to such a variety of hardships, instead of meriting them, has rendered material services to the Honourable Company; I trust, Gentlemen, that in these events, you will direct the remedies and redress best suited to the circumstances of the case.

After having given you the trouble of reading so much on the subject of Colonel Stuart's conduct, and entertaining more than a hope, that the true state of his case has by this time made some impression on your minds, it may reasonably be expected from me to point out, which I shall do with great submission, the objects I have in view by this application.

Upon this principle, therefore, I shall take the liberty of suggesting to your consideration, the general nature of the redress to which Colonel Stuart, or his friends, may think him entitled; and the modes in which, if it should meet with your approbation, that redress may, without difficulty, be accomplished.

For this purpose, it seems necessary, that one or other of the two following measures should be adopted.

The *first* is by persevering in the plan which had already occurred to you, and to which Colonel Stuart most cordially agreed, that of having every circumstance of his conduct tried by a Court-martial, on the spot where the transactions happened; but then it is extremely material, in the event of your renewing your order for this trial by a Court-martial, that the order be made peremptory and absolute, without any discretion left in India, to refuse that Court-martial; for it is of the utmost importance, to avoid the same uncertainty and hurtful delays which have already happened to Colonel Stuart in consequence of the first order, such delays being of themselves, and especially when attended with suspension, to any person in his situation, a strong degree of punishment.

As the principal difficulty which prevented the Governor and Council at Madras from granting the Court-martial was, that no such trial could be proceeded to with any effect, until it should be previously declared, whether the *legal government* had been vested in a Majority of Council; therefore, it seems essentially necessary, if there can still be found those who think that point not already sufficiently clear, that when the orders are sent out for Colonel Stuart's trial by a Court-martial, your sentiments with regard to this point, respecting the legal government, should accompany the direction for a trial.

If this mode of taking Colonel Stuart's case into consideration is adopted, which I beg leave to observe would of all others be the most acceptable to him, I submit to your consideration, whether, at the same time that you send out the orders for his trial by a Court-martial, there should not be directions sent to fix and ascertain the particular redress he is to receive, in the event of his being honourably acquitted; for what is extremely remarkable, there has never hitherto been any provision made for the case even of his innocence, and much less for the supposition of his merit;—the only thing in contemplation has been the case of guilt, and it becomes the more necessary that such instructions should accompany the order for trial, on account of the immense distance of place, and consequently the material and inevitable loss of time, if Colonel Stuart shall again be obliged to wait the returns from this country to India, before he receives any beneficial effects from his innocence, should the determination of the Court-martial be in his favour.

The *second mode* of doing justice to Colonel Stuart, is by your being pleased to enter upon the examination of his case, and to decide upon it from the ample facts now in your possession, without the intervention of any other Court of Enquiry, or of a Court-martial.

Any proposition of this kind, at the time when you sent out your former orders, either those by Mr. Whitehill, in the month of June, or the subsequent orders by Mr. Rumbold, in the month of July,

1777, I admit, would have been improper ; because, at these periods, the knowledge of facts was not sufficiently attained, nor could you then conjecture what consequential mischiefs had arisen, or might arise in the interval between the time of arresting Lord Pigot in August 1776, and the time at which the new government should be established by the orders then sent out ; neither could you know, and much less judge, what Colonel Stuart's conduct had been, or might be, in that interval.

But now that all these things are past, that they are become historical facts, not matters of speculation, it has occurred to many impartial and judicious persons, that it would be highly proper if you, Gentlemen, would now enter into the consideration of this matter, and that the circumstances of Colonel Stuart's case, as well as the situation of affairs in India, do in reality make it requisite and suitable, that you should, from the full materials in your possession, take it upon yourselves at this time, to decide upon his conduct.

In the general letter from your Governor and Council at Madras, dated 14th of March, 1778, brought home by the Duke of Kingston, paragraph 6th, they tell you, " that the questions involved in " General Stuart's case, were such as no authority *in that country* could " properly decide." In the 9th paragraph of the same letter, where they state the inutility of a Court of Enquiry, for ascertaining facts upon evidence, they give the following reason for being of that opinion, " Because in regard to facts, we apprehended that the records of the " Company were *already sufficiently explicit* for all the purposes required ; every part of General Stuart's conduct is there set forth by " his own acknowledgment, or the testimony of others, and that apparently in the fullest and most circumstantial manner."

In paragraph 10th, of the same letter, after mentioning that Lord Pigot was arrested by an order under the signature of George Stratton, Esq; Sir Robert Fletcher, Henry Brooke, Charles Floyer, Archdale Palmer, Francis Jourdain, and George Mackay, Esqrs. they tell you
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expressly,

expressly, " *that General Stuart appears to have done nothing in this transaction, independent of that authority which gave him the order;*"—and in the course of the same paragraph, they clearly express to you their opinion, that the merits of General Stuart's case must turn upon the *legality* or *illegality* of the orders and authority under which he acted; and that this being a question of so nice and important a nature, they did not think themselves competent to form a judgment upon it.

Are not all these very strong and powerful reasons for you, Gentlemen, in the direction of the East-India Company's affairs, to relieve the Government and Council at Madras from the difficulties which have prevented their acting in this business, and to take upon yourselves the immediate decision of it?

It appears from the opinion of the Governor and Council at Madras, and from the circumstances of the case itself, that it needs not be a matter of long discussion, nor attended with much difficulty to decide *what relates to Colonel Stuart* in this business.

If it be true, as stated in the letter from the Governor and Council at Madras, that he did nothing independent of the authority under which he acted, then Colonel Stuart must unquestionably be free from blame for his obedience to these orders, provided you shall be of opinion, that the powers of Government were in the *Majority of Council*, who issued them.

But even though you should be of opinion that the legal Government was vested in the Majority of Council, I beg leave to observe it might still remain a *separate* and *very different question*, Whether that Majority acted *properly* or *improperly*, *wisely* or *impolitically*, in issuing to Colonel Stuart an order for putting them in possession of the Fort-house, garrison and fortress of Fort St. George, and for arresting Lord Pigot?

But this is a question with which Colonel Stuart, who was no Member of Council, who issued no order, but obeyed only the orders

which others had issued, can have no earthly concern; the responsibility for that measure resting totally with the *Majority of Council* and the *Commander in Chief*.

It is, therefore, by no means, as has been generally and erroneously supposed, a *common cause* between Colonel Stuart and the Majority of Council; their cases stand upon a different footing, and may be decided upon a different principle.

This distinction betwixt his case and that of the Majority, seems to have occurred to the Governor and Council at Madras, who, in their letter to the Supreme Council in Bengal in August 1777, express themselves thus: " We think it necessary to observe with respect to " Brigadier-general Stuart, whose situation in the late transactions was " *peculiar*," &c.

In the proceedings at Madras, Colonel Stuart himself has very carefully separated it; nor will your deciding upon *his case*, by itself, imply your approbation of the *policy* and *discretion* of the Majority of Council who issued those orders under which Colonel Stuart acted.

Permit me now, Gentlemen, to take the liberty of reminding you that, besides the more ancient and unrepealed orders and instructions for regulating the constitution in your Settlement at Madras, you have yourselves sent out by Mr. Whitehill, in June 1777, fresh orders and instructions on this subject, express and unambiguous; by which you have not hesitated to declare, that the legal Government of Madras is vested in the *Majority of Council*,—as the Majority of Council who issued the orders to Colonel Stuart, contended it was.

Before therefore it can be your opinion, that any man acting in obedience to the orders of the *Majority of Council* acted illegally, you, Gentlemen, must determine that the Government of Madras in its principles, and construction, was different in the year 1776, when Colonel Stuart acted, from what you have *since* decided it to be in the year 1777.

But

But should there be any reasons for your wishing to avoid, or to delay giving an express opinion upon a point on which it seems already to be so strongly implied, there still remains a distinct and sufficient ground for proceeding to final determinations in Colonel Stuart's case, from the circumstances which are peculiar to it, and which are not connected or involved with the case of the Majority of Council.

Because, supposing the pretensions of the Majority of Council to the powers of government not to amount to a clear and indisputable right, still on the lowest estimation of these pretensions it must be admitted, that it was at least a doubtful point, whether the *legal government* belonged to the Majority, or to the President and Minority of Council at Madras; for certainly no person acquainted with the nature of the constitution at Madras, or with the state of opinions upon this point in your settlement there, will pretend to say, that it was a clear and indisputable point, that the Majority of Council was *not* the legal government.

Taking it then as a doubtful point only, whether Colonel Stuart was bound to obey the orders of Lord Pigot and the Minority of Council, or those of the Majority; surely it could not with justice be maintained, that he was culpable, because he obeyed the authority of the latter, in preference to that of the former, especially as there was this additional reason for his doing so, that his Commander in Chief, Sir Robert Fletcher, was one of the persons who signed the order which Colonel Stuart obeyed.

If it could be supposed that the weight of the civil authority was so equally poised as to produce doubts on which side it preponderated, can it be matter either of wonder or of blame, that a military man, formed by his education to obey rather than to investigate, should allow on so even a balance, and in a discussion of so much nicety, the concurring commands of his superior officer to turn the scale?

If in this particular point Colonel Stuart stood in need of further justification, it ought to be of no small weight that the Supreme
Council

Council in Bengal unanimously declared the *legal government* at Madras to be vested in the Majority of Council.—The question therefore may, without impropriety, be put by Colonel Stuart, At what period could he possibly suppose that the Majority of Council was *not* the the legal government? That it was so in the year 1776, before, and subsequent to the disturbances, is clearly declared by the Supreme Council in Bengal, uncontradicted by any declaration or opinion on your part; and that it was so in the year 1777, is as clearly declared by the positive instructions which the East India Company sent out by Mr. Whitehill.

Neither can I prevail upon myself, even circumstanced as I am, to throw out of this question, the opinion and assertions of Colonel Stuart himself, which have been uniform and strong, that the *legal government* which he was bound to obey, was according to his private judgment vested in the *Majority of Council*, the sincerity of which opinion I shall endeavour to prove from his conduct, and by examining whether there was any object of interest in prospect, or attained by him, by means of the part he took in the convulsions at Madras in August 1776.

Colonel Stuart went out to Madras, second in command, and with the command in chief assured to him, and the rank of Brigadier-general, upon the death, removal, or resignation of Sir Robert Fletcher, who, at the time of these disturbances, in August 1776, was in so bad a state of health, as to be thought past recovery; and he died soon afterwards, in December 1776.

The only thing, therefore, that was likely to prevent Colonel Stuart's attaining the Command in Chief, the first wish of a military man, and the very object for which he entered into the service of the East India Company, was any disturbance or confusion in the government at Madras, that might in its consequences defeat the effect of the appointment which he carried out with him to India.

It was easy to foresee, that the division of the Council into two opposite parties, each of which, pretending to be the legal government, would

would of course require an implicit obedience from Colonel Stuart, was the thing in the world most likely to produce such confusion, and an unfortunate alternative for him personally, which might prove fatal to his expectations.—It was a *crisis*, which, instead of promoting, every man of any degree of understanding, or even of ambition, both of which Colonel Stuart's enemies are so obliging as to allow him, would, in his situation, have been at the utmost pains to avert.

Upon the same day, the 23d of August, each party made an offer to Colonel Stuart of the command of the army; there was however this material difference, that the command offered to him by the Majority of Council, the party which he obeyed, was only the *temporary command* during the indisposition of Sir Robert Fletcher; whereas the offer by Lord Pigot and his friends, who had put Sir Robert Fletcher under arrest, with a view to his being tried by Court-martial for mutiny and sedition, was the complete and immediate command of the army, without any limitation of time.

It is evident, therefore, that the part which Colonel Stuart acted in this disagreeable alternative, was that which, according to all the rules of self interest, was the least likely to be beneficial to him.

I go farther, and say, that to be brought to such an alternative at all, was a thing so evidently unfortunate, for any man placed in Colonel Stuart's situation, that it excludes the possibility of supposing that he could be a party, or in the smallest degree concerned in any scheme or plan to produce the disturbance and convulsion which happened at that time, unless we suppose him to have been void of every degree of common understanding or attention to his own interest.

Nay, if he had foreseen even the chance of such disturbances, and could have removed himself to the remotest part of India, until either the one party or the other had got clearly the ascendant, that would have been a much more judicious and beneficial plan than putting himself in the way of receiving, or being under the necessity of obeying, the orders of either.

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But it will even be said, perhaps, for there have not been wanting those who have ventured to insinuate it, that though Colonel Stuart took the part, which to all appearance was the most against his interest, yet there were certain secret means of counterbalancing to him the disadvantages and hazards to which he was exposed;—in short, that he either had received, or was promised by the *Nabob of Arcot*, or by those connected with him, such pecuniary presents as were sufficient to compensate any losses and disadvantages he might sustain in other respects.

If those who have permitted themselves to make such insinuations, for they have never amounted to open assertions, can shew to your satisfaction, Gentlemen, that Colonel Stuart, either directly or indirectly, ever received or was promised, either by the Nabob of Arcot, or by any other person, any sum of money or other reward, for the part which he took in obedience to the orders of the Majority of Council, I shall admit that he deserves the severest indignation of the Company; for my own part, it would completely put an end to every effort or endeavour from me, to support his cause, or in these supposed circumstances to vindicate the character or conduct even of a Brother.

But I have so thoroughly convinced myself (and from the strongest reasons) of the falsehood of the imputation, that however humiliating it may be, to enter into the vindication of one's friend upon topics of this sort, I most readily embrace the opportunity of putting to defiance, even the greatest enemies of Colonel Stuart, and of calling upon them, by every decent method of provocation, to shew, with any colour of probability, that he ever received or was promised any reward from any quarter whatsoever, for the part his duty obliged him to take in the disturbances at Madras.

When I had the honour of addressing you in April 1777, there was inserted in my letter, the copy of part of a private confidential letter, which I had then recently received from my Brother, which was in these words:

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" Before I take my leave of you, my dear Brother, I shall beg
 " leave to repeat what I have already declared to my friend, General
 " Clavering, that as I hope for mercy, I never had any promise, nei-
 " ther am I in possession or expectation of any private benefit what-
 " ever, resulting from the change now brought about in this govern-
 " ment."

Such is the language of his most private and confidential letters to me, on the subject of the part he took, and though his assertions do not with me stand in need of additional confirmation, yet from a variety of concurring circumstances, I have every reason to place complete reliance on the sincerity and truth of what he has so solemnly asserted.

Another charge, of an injurious nature, has also been very industriously circulated against Colonel Stuart, that he was so closely linked with the Majority of the Council, as to have embarked in the indiscriminate support of all their measures. But I can undertake to demonstrate, that Colonel Stuart, so far from being a man of faction or of party, has conducted himself in such a manner as to belong to no party or particular description of men in India.—He has endeavoured, according to the best of his judgment, to promote the general interests of the Company, both in their civil and military affairs, and, making that the rule of his conduct, his support either to one party or another, has been regulated by the notions he entertained of the tendency of their measures to the public utility.

Sensible that this assertion ought to be supported by strong and unambiguous proofs, Colonel Stuart appeals to the consultations and records of the Madras Presidency, in your possession; and he has repeatedly pressed upon me, to request your particular attention to these authentic proofs of the impartiality and independency of his conduct, and of his acting from his own judgment, unconnected with any particular party, and frequently differing from all parties.

Colonel Stuart's opinions, inserted in these consultations and records, since the time that he had a seat and voice in Council, will likewise

show

show that he held this conduct, equally with respect to the European, and the Asiatic disputes; not only when they related to questions agitated amongst your own servants, but to the measures proper to be pursued, in what respected the opposite or rival interests of the *Nabob of Arcot*, and the *Raja of Tanjore*.

If then I have cleared Colonel Stuart's conduct from the suspicion of either producing or fomenting the disturbances at Madras, or of acting from interested motives on that occasion; if I have shewn that he merely gave obedience to orders which his sense of duty compelled him to obey, though contrary both to his real and apparent interest;—if it has been made evident, that no share of responsibility for the measures which he carried into execution could justly be allotted to him, and that he executed those measures in the manner of all others the best calculated for the peace and security of the Settlement, as well as for the preservation of Lord Pigot, and the lives of other individuals; What obstacle can there possibly be to prevent the entering upon an immediate consideration of Colonel Stuart's case, either connected with, or distinct from, that of the Majority of Council, as you shall prefer?—And is there not sufficient ground to justify me in concluding, that the very peculiar circumstances of the case must dispose you, Gentlemen, to adopt the mode best suited for giving the most speedy and effectual redress to Colonel Stuart, who being an officer of no inconsiderable rank in your service, is therefore particularly entitled to your protection, and who considers himself as authorised to complain that he has been injured and misrepresented?

After having trespassed so long upon your time, it is but too evident how much I stand in need of your indulgence; the various topics necessary, not only to be touched, but enlarged upon, in this address,

CONCLUSION.

have imperceptibly encreased it to a length beyond what I was at first aware of, and far beyond what I intended.

To state facts, upon which no opinions have been formed, is not, perhaps, a very difficult task, nor does it require much detail; but to state them, so as not merely to convey information, but to remove the prejudices which have been already conceived, and taken root, demands a much greater degree of particularity and minuteness, and is a very different undertaking.

That prejudices should have arisen in consequence of the first accounts brought to this country, of the convulsions at Madras, I have no right to be surpris'd; the first accounts of any, and especially of any distant transaction, are seldom the most correct; but besides this, every man, whose fate it is to act upon critical and important occasions, must not only submit to have his conduct freely canvass'd and criticis'd, but when the various interests of many different persons have been affected, must further expect to undergo a great degree of prejudice and calumny.

From the first moment that the accounts reached this country, of the events which had happened at Madras, I have ever sincerely lamented them; an apprehension that the public interest might be affected, would of itself have been sufficient to make me regret them. To this, however, has been added a particular concern on account of the animosity which it was easy to foresee would be excited against my Brother, from the part which had been allotted to him at that difficult crisis of your affairs.

It was obvious, that whether blameable, innocent, or meritorious, Colonel Stuart would inevitably be involved in many disagreeable contests, that he would be exposed to the resentments of at least one party, and to a variety of attacks and aspersions upon his character and conduct.

It has therefore fallen to my lot to answer those attacks, and to endeavour to remove the prejudices occasioned by those aspersions.

which have been thus thrown out against an absent Brother, who, it must be confessed by every one, has at least been unfortunate; and perhaps those who have attentively perused this narrative, may by this time be of opinion that he has been severely and unreasonably persecuted.

In performing the painful task which has fallen to my share, I am apprehensive that an over anxiety, lest some fact should be omitted, or some reasoning too slightly enforced, may imperceptibly have led me into the repetition of what had been already said, or the addition of what was unnecessary.

For the imputations against Colonel Stuart have assumed so many different forms, and been extended to so great a variety of particulars, that I have necessarily been obliged to investigate every ground upon which the attacks against my Brother had been founded, though many of them were such as in ordinary cases might have been thought of too trivial a nature to demand attention, and much less to require a serious refutation.

I am sensible of this disadvantage, and of having been led by Colonel Stuart's adversaries into the discussion of so many and such minute particulars, the exact recollection of which I fear will be thought to require too great and painful an effort of the attention.

For the assistance therefore of those who from duty or from curiosity may be led to peruse this narrative, if it were not adding to the length of it, already too long, I should be inclined shortly to resume all the material facts and propositions established in the course of the preceding enquiry;—without, however, engaging in that extensive plan, I shall beg leave only to recal to your memory some of those facts and propositions which are the most essential, and the least incumbered with uninteresting and minute circumstances.

It is a fact, which will not be disputed, that the most uninterrupted peace and security have prevailed in your settlement at Madras, notwithstanding

withstanding the temporary dissensions in the month of August 1776; and it is admitted, that while these dissensions were at their greatest height, even at that very critical period, not one life was lost, nor the least personal injury sustained by any individual in the Settlement, whether that individual was a favourer of Lord Pigot, or took part with the Majority of Council.

It has always been thought a ground of merit for an officer charged with the execution of an order of a very hazardous and difficult nature, that he had accomplished the objects of that order without the loss of lives; without any man being injured in his person or property; and without any tumult or confusion in the community.

This merit has been universally allowed to Colonel Stuart, and it has been uniformly the firm conviction of his mind, not only before, but since the arrest of Lord Pigot, that, if he had either supported his Lordship in opposition to the Majority of Council, united with the Commander in Chief,—or if in consequence of the orders received from that majority, he had attempted to seize the fort and garrison of Fort St. George, without the previous arrest of Lord Pigot;—or, finally, if that arrest had been attempted in a more public, or in any other manner than that in which it was accomplished;—the almost inevitable consequence must have been, the loss of lives, and involving the Settlement in all the horrors of a civil war.

Can it therefore, in the mind of any man, be longer a matter of doubt, whether Colonel Stuart has acted the part of a meritorious and faithful servant to the East-India Company?

If indeed there is any one who can be of opinion, that the orders which Colonel Stuart received from his superiors, civil as well as military, could have been carried into execution with less personal injury to Lord Pigot or his friends, or with less prejudice to the peace and security of the Settlement, such a person may have a right to think, that Colonel Stuart's interference was unfortunate, and that he was
unskilful

unskilful in the execution of the orders he had received; but still it would by no means follow that the obeying them was *illegal*, or a breach of duty on his part.

There is really, allow me, Gentlemen, to say it, something very singular and astonishing in the reception Colonel Stuart's conduct has hitherto met with.—Any man unacquainted with the circumstances of his case, and informed only of the outcry which had been raised against him, must have concluded, that the man persecuted with so much rage and violence had certainly involved some of your Settlements in civil war;—at least that he was accountable for many lives lost by the indiscretion of his conduct;—or, at the lowest estimation of his offences, that he had been guilty of disobedience of orders, both to the military and civil part of the legal and established government of Madras.

But the real facts have been precisely the reverse of all these atrocious and supposed delinquencies; and therefore, so far as relates to the material and solid interests of his Honourable Employers, it may now, I hope, without presumption, be assumed as a thing not to be controverted, that Colonel Stuart has acted the part of an obedient and faithful servant, attentive to the interest of his Employers; and that he is entitled to no small share of praise for the discretion of his conduct at that most critical period, in addition to his many acknowledged services in the military establishment, which his friends and enemies have equally admitted.

In such circumstances it almost exceeds belief, that he should have met with such an accumulation of misfortunes, hardships, and indignities; the mere enumeration of which has consumed many pages, and from the perusal of those parts of this narrative one obvious and very material reflection must arise;—that if he had been actually guilty of a crime of very considerable magnitude, he has already suffered more than would have been sufficient to expiate and atone for it:—Suspended—superceded—degraded from the first military command with severe marks of censure and displeasure, before any trial or enquiry

enquiry into his conduct.—These are severities which affect both the honour and the interest of a military man, and are proportioned only to offences of great magnitude and clearly ascertained.

Afterwards when his trial by a Court-martial is ordered, no idea is entertained even of the *possibility* of his innocence, or of merit; contrary to all the usual maxims of justice and suppositions of humanity, which consider a man as innocent until he is actually proved to have been guilty.

No provision is made for redress to his honour or interest in the case of an honourable acquittal;—nothing seems to have been in contemplation but his guilt and the certainty of punishment.

Effectual care was indeed taken, that in all events, guilty or innocent, he should be punished by being deprived of that command, upon the faith of which he went to the other side of the globe; for the supercession of Colonel Stuart was not made temporary and dependant upon his acquittal, but whether tried or not, and whether acquitted or not, his command was given to another purposely sent from England, and in whom it was vested without any limitation of time.

Upon the whole, the treatment Colonel Stuart has met with amounts to this, that whether *guilty, innocent, or meritorious*, he is turned out of your service with marks of displeasure and disgrace, and the severity of his fate is increased by the height of the situation from which he is degraded; and is still further aggravated, by all this being inflicted upon him independant of any trial or enquiry into his conduct; when at length an order is sent to India for his trial, so earnestly solicited by him and by his friends, that trial which might have been the means of vindicating his honour, though care had been taken that it should not restore him to the command of the army, is expressly, and very unfortunately for Colonel Stuart, refused.

It would surely, Gentlemen, be trifling with the calamities of any man to say to him, We are bound, till you are tried, to act upon the presumption of your being guilty, and at the same time to refuse him that trial
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by which alone he can prove that he is innocent.—But it would be a mockery still more cruel to say,—We will grant you a trial;—you shall have the opportunity you want of proving your innocence;—but having proved it, you shall continue to be punished as you was before the trial, or even as if you had been proved to be guilty.

Though I profess the reasons of some of these steps taken with regard to Colonel Stuart do not appear to me perfectly obvious, I wish most anxiously to have it understood, that nothing here said is intended to carry with it an imputation of blame upon past proceedings; but I mean only to urge what Colonel Stuart has suffered, from the tantalizing hopes of a trial, and the long delay of justice, as a foundation and inducement for your future favour to him.

The misfortunes which he has met with in your service have likewise occasioned other misfortunes, and produced a temporary disappointment of his well-founded expectations in his Majesty's service.

As you had before trial suspended Colonel Stuart, and, from entertaining some degree of doubt as to the propriety of his conduct, had directed that he should be tried by a Court-martial, *therefore* his preferment was put a stop to in the King's service in the general promotion of officers which took place last year, and though he was near the head of the list of the Lieutenant-colonels entitled to the benefit of that promotion, *thirty-two* Lieutenant-colonels, younger in the service, obtained the rank of Colonel, which was withheld from him.

This very mortifying disappointment happened to an officer whose merits in his Majesty's service are acknowledged—who in the course of last war filled some not unimportant situations—who acted as *Quarter-Master-General* at the reduction of *Belleisle*—commanded a regiment at the taking of *Martinico*—and at the *Havannah* was selected to command the party which stormed the *Moro Fort*.

All these duties he is well known to have discharged, to the satisfaction of the several respectable commanders under whom he acted; with reputation to himself, and utility to the public.

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If I am rightly informed, there have been few instances of officers, who when they first entered into the service of the East India Company, were as high in the King's service as Colonel Stuart, and who had the advantage of so much experience in military matters;—while these advantages were doubtless an inducement to you, Gentlemen, to adopt Colonel Stuart into your service; they likewise afforded him the flattering prospect that he should be capable of rendering such essential services in your military establishment, as would infallibly secure to him both your approbation and the permanency of his situation in India, and with that view he incurred a very large expence in fitting himself out in a manner suited to the rank he expected to hold there.

Upon a full and fair review of what has happened to Colonel Stuart since entering into your service, it would be difficult, I believe, to produce an instance of any man's having met with such a sudden change of situation, such a cruel disappointment of his hopes, and who has been involved in such a continued scene of disagreeable struggles and contests, as have fallen to Colonel Stuart's lot.

If I have been successful in shewing, that he never has deserved the imputations laid to his charge, and that on the contrary he has not only been innocent but meritorious; it surely must be an interesting reflection, that all these various hardships and severities have been inflicted upon an officer and servant of the Company, who has promoted the interests of his Honourable Employers, and of the State in general, not only by the part he acted during the time he had a seat and voice in Council, but likewise by his material improvements of your army in the Carnatic, and by a variety of the most beneficial regulations in his military department.

It is not for me to state at large and to expatiate upon his merits in these respects, but it may be permitted, especially when called upon in the defence of a Brother so injured and misrepresented, to appeal to your own records and informations from India, as well as to the testimony

testimony of many officers and other gentlemen lately come from that part of the world and now in England, for the truth of what I assert.— From these various sources of the best and most authentic information it will appear, that Colonel Stuart, has, ever since his arrival in India, applied himself to the business of his military department there, with a degree of zeal, activity, and attention to oeconomy, of which there are few examples; and that by his great vigilance and many improvements on the state of the army and garrisons in that part of India, he has put them on a most respectable footing, and fortunately at that period of time, when the Honourable Company and the State in general may probably derive the greatest advantages from his labours.

It is well known to have been a very favourite opinion of Lord Clive's, founded upon reason and a perfect knowledge of the subject, that in India, where the continuance of life and of health is much more precarious than in Europe, it was incumbent on the East India Company, always to be provided with more than one or two officers of experience fit for command, who, by having been resident on the spot, should not only have acquired a proper degree of local knowledge, but have overcome the inconveniencies which constantly attend Europeans upon their first arrival in that climate.

As the wisdom of this opinion of Lord Clive's, both from the reason of the thing itself, and from the great authority by whom it was recommended, will, I believe, be universally admitted, there may perhaps, after considering the opportunities Colonel Stuart has had of acquiring knowledge by several years residence in India, and after knowing what he has done, and was in the course of doing, in the military departments in the Carnatic, be some degree of regret on a future day, at the Company's having deprived themselves of his military talents and assistance, at a time when we are likely to be engaged in war both with the French, and with some of the country powers in that part of India.

It is however a justice I owe to my Brother's sentiments, contained in his private letters to me, to communicate to you, that he has assured me in the most solemn manner, and I believe he has made the same declaration at Madras, that although no earthly consideration will ever induce him so far to degrade himself as to act in peaceable times in any station inferior to that which he has already filled, or to accept of any situation inconsistent with what he owes to himself, and to his rank and services; yet, in the event of actual invasion of the country, by the French or other enemies, that he will, even during his suspension, offer his services in any way, however subordinate, in which they can be deemed useful to the interests of the Company.

In the course of the preceding narrative there is one thing, Gentlemen, which, independent of the propriety or impropriety of Colonel Stuart's conduct in other respects, cannot possibly have escaped observation, that upon all occasions and whenever an opportunity has occurred of testifying his respect for the orders and authority of his Honourable Employers, he has afforded the strongest proofs of that proper sense of duty which has influenced the whole of his conduct.

Instead of acting the part allotted to him by the injurious predictions of his adversaries, he has distinguished himself by his zealous endeavours to promote the establishment of good order in your Settlement, and by the most implicit obedience to the will and pleasure of the Honourable Company, even in those instances where that obedience must have been extremely mortifying to him; and I take it for granted that it is unnecessary to observe to you, that his conduct in these respects has both merited and actually obtained particular approbation from the Government at Madras, which succeeded to that of the Majority of Council.

You have also had occasion to observe, that the whole of his conduct, during the critical and important situation of affairs at Madras in the month of August 1776, had received the strongest marks of approbation from the Supreme Council in Bengal, to whom a superintendency

over your affairs in India was delegated by the authority of Parliament.

Thus the Council of Bengal, who had authority to judge of Colonel Stuart's conduct, has *positively approved* of it.—It has not been *positively condemned* or *disapproved* by any who had such competent authority; at most it has only been *doubted upon*, and even these doubts have not extended to the whole of it; for there are very few indeed who scruple to allow him merit for preventing the mischiefs which must have attended his executing in a violent manner the orders he had received, and it is generally agreed that he was in no degree responsible for these orders.

Permit me now, Gentlemen, to renew my request for your adopting such immediate and effectual measures, as may speedily decide upon my Brother's conduct, and regulate his future expectations.

It is in your power to give the wished-for redress, by one or other of the two modes which have been already pointed out: The first is by peremptorily ordering his trial by a Court-martial, without any discretion left to your servants in India to grant or refuse it; and if that mode is adopted, I trust, for the reasons already given, that your order for his trial will be accompanied not only with your determination upon the point respecting the *legal government* at Madras, in August 1776, but also with instructions to your Governor and Council of Madras as to the particular redress Colonel Stuart is to meet with in the event of an honourable acquittal.

Or his conduct may now, as it appears to me with still greater propriety, be decided upon from the ample proofs in your possession, which have been shown to be sufficiently explicit to enable you, Gentlemen, to enter upon the consideration of at least Colonel Stuart's case, and to come to some final resolution founded upon solid grounds.

If the present state of suspense and inactivity with regard to Colonel Stuart were to be further continued, it is impossible that complete justice

justice can be obtained either for or against him; he can neither be punished nor rewarded properly.

If he shall be found to have transgressed his duty, I shall certainly have no right to complain of his punishment.—If he shall be found only to have performed it, the most zealous of those friends of Lord Pigot, whom I am sorry to consider as in any degree adversaries to Colonel Stuart,—even the Brothers of Lord Pigot, I am persuaded, not from any actual communication with them, but from the known liberality of their characters, would be the first to wish that Colonel Stuart was acquitted.

Though these unhappy disputes at Madras have unfortunately rendered us opposite in this contest, there is one predicament in which our situations are the same;—we have in common the feelings of a Brother, and of course the same anxiety and solicitude where a Brother's character and estimation are at stake.

It has been the sincere and fervent wish of Colonel Stuart, since the moment that he heard of doubts being entertained as to the propriety of his conduct, that a trial by a Court-martial should take place.—In all the different stages of this business he has been uniform in that wish.—When first a Court-martial was held out to him as a threat, he defied it;—when afterwards he had reason to expect it, he declared the highest satisfaction;—and ever since it has been denied him, he has been incessant in his expressions of the strongest regret.—His preference of this to any other species of trial, is because he esteems it to be the most effectual and suitable mode for a military man to wipe off every ill-founded aspersions.

It is without any authority from my Brother, that I have ventured to propose the other mode of redressing his grievances, by taking his case into your own immediate consideration.

This idea has been suggested to me principally from the perusal of the reasons given by your Governor and Council at Madras, for refusing the trial by a Court-martial.—They have said distinctly, that Colonel Stuart

Stuart has done nothing independent of the authority under which he acted,—have intimated that the *legality* or *illegality* of that authority must be declared before any trial can proceed,—and have informed you, that the circumstances of his conduct are sufficiently ascertained by the records in your possession.

It further became evident to me, that to a person in Colonel Stuart's situation, any additional suspense and delay, is in reality a very solid and a severe degree of punishment,—and a trial by a Court-martial, upon the spot where the transactions happened, and there I maintain it can alone be held with justice to Colonel Stuart,—or a trial either by a Court-martial, or by the Courts of Law in England, which would require evidence to be brought from India, must certainly be attended with the greatest delay, besides many other unavoidable inconveniences.

Having mentioned a trial by the Courts of Law in England, I beg leave once more to recur to an observation that can never be too often repeated, or too strongly inculcated, that the only thing for which Colonel Stuart can be responsible, is the *Execution* of the orders he received from the Majority of Council; and indeed, independent of the interest which Colonel Stuart must always take in the prosperity of the East India Company, it is immaterial to him whether the orders were *right* or *wrong*; in either case he thinks himself equally entitled to some degree of merit:—if they were *beneficial*, he thinks that he has encreased these *benefits*; if they were *mischievous*, that he has diminished those *mischiefs* by his discretion and temper in the execution of them.

In the course likewise of my collecting and arranging the particulars of Colonel Stuart's conduct, in answer to the charges thrown out against him, the practicability as well as the propriety and superior utility of his case being judged of and decided by you, Gentlemen, have become still more apparent.

Impressed so strongly as I now am with this opinion, I cannot help taking blame to myself in a considerable degree, for not having sooner collected and submitted to your consideration, the answers on the part of my Brother, to the imputations thrown out against him,—and I take this opportunity of assuring you, that notwithstanding the various reports, and some illiberal publications circulated to his prejudice, I have ever abstained not only from stating his case to his Honourable Employers, but from having any concern directly or indirectly in any of the publications relating to these Madras disputes; excepting only that I gave my assistance in collecting and arranging the materials lately published in relation to the proceedings of the Coroner's Inquest, which is merely a collection of authentic papers for the information of the public, upon these strange proceedings, without any reasoning upon them.

As I was fully persuaded that my Brother's trial by a Court-martial was to take place, in consequence of the orders you sent out by the Besborough, I therefore thought it my duty not only to avoid giving you unnecessary trouble, but that it became me to abstain from any representation or discussion of his case, while there was so much reason to expect that it was in the course of being judicially ascertained, and reported to you in the most authentic manner by the Court-martial.

Besides the various concurring motives which I have already mentioned, and which induce me, though unauthorised by my Brother, to wish that the second mode, I have ventured to propose, should take place.—Besides the impartiality and candour with which I am confident, Gentlemen, you will discuss and decide upon Colonel Stuart's conduct and future expectations, there is this strong additional inducement for the preference to the second mode, that the delays which I have stated above, as inevitable in every other method of proceeding, will by this be avoided.

It

It is also a consideration which every body will admit, is extremely interesting both to Colonel Stuart and his friends, that besides the weight, which your *Authority* in the decision will carry with it in the world, it is in the Directors and Proprietors of the East-India Company alone that the *Power* resides, of giving redress to an injured officer and servant of the Company.

If, however, contrary to what I have taken the liberty of representing, it should appear to you, Gentlemen, that a Court-martial is the preferable method of proceeding, permit me most earnestly to request that the orders for that trial may be sent to India by the first dispatches.

The anxious wish of Colonel Stuart and his friends is, and ever has been, that *every Measure* should be adopted which may be the best calculated for a thorough examination of his conduct, as well as for throwing light upon the motives and the consequences of it, and that this should take place with the least possible delay;—what is most dreaded on his behalf is the continuance of his present situation, without either *Trial* or *Examination*.

And surely, Gentlemen, this anxiety for a speedy determination of Colonel Stuart's fate and future prospects cannot appear to you either unnatural or unreasonable.—If misfortunes like those which he has experienced would have been distressing to any man, it is not to be wondered at if they have been more peculiarly so to a military man, in whom a more than ordinary degree of sensibility is not only allowable but even commendable, upon every point that may affect his military rank, character, and estimation.

Is it therefore to be wondered at, if, after possessing the distinguished rank of Commander in Chief of your great army in the *Carnatic*, he should feel himself hurt and mortified at being degraded from that

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command,

command, in a time perhaps of the greatest exertion and activity;—and that, suspended as he still continues to be from your service, he should be waiting in India with the most anxious solicitude, your final resolutions concerning him.

This unexpected reverse, affecting to any officer, must be more deeply so to him, whose pride it was to have bestowed such indefatigable pains in putting not only your army, but your military posts in that part of India, on the most respectable footing; and to have introduced by his attention and example the strictest discipline into the service, while he at the same time acquired the confidence and attachment both of the Officers and soldiers.—He vainly flattered himself, that if, during his stay in India, the situation of public affairs should call for any military exertions, he could not have failed to acquire some degree of credit by the conduct of that army which he had disciplined and improved, and by the utility of the many military plans which he had formed.

But the situation in which he is now placed has put an end to all these hopes; he finds himself, untried and unheard, deprived of the opportunity of rendering services to the public, and instead of acquiring any additional credit to himself, left, from a train of unfortunate events, struggling against a torrent of calumny, to preserve that reputation and good name, which, till these unhappy disturbances, had upon no occasion been disputed.

These, Gentlemen, are the calamities, and this is the heavy load of injury under which he has so long laboured, and under which, even though you should enter into an immediate discussion of his case, he must still continue to labour, till the arrival of your dispatches in India; uncertain whether those dispatches will bring his acquittal,—a continuance of his punishment,—or a refusal to hear him.

It

It depends, therefore, upon your justice and humanity, Gentlemen, to put a period to a situation so severely mortifying to an officer, conscious of having exerted his best endeavours for the interests of his Honourable Employers.

I have the honour to be with great truth,

G E N T L E M E N,

Your most faithful and

obedient humble Servant,

Berkley Square,
22d December, 1778.

AND^w. STUART.

1. The first step in the process of the investigation is to determine the scope of the problem. This involves identifying the specific areas of concern and the potential causes of the problem. Once the scope is defined, the next step is to gather data. This can be done through a variety of methods, including interviews, surveys, and observation. The data collected is then analyzed to identify patterns and trends. Finally, the results of the investigation are used to develop recommendations for improvement.

A P P E N D I X.

CORRESPONDENCE *between* Lord BARRINGTON, *Secretary at War, and* Mr. STUART, *in relation to his* *Brother, Colonel* JAMES STUART.

[Referred to in page 50 of the preceding Letter.]

From Lord Barrington to Mr. Stuart.

SIR,

Cavendish Square, 3d September 1777.

YOUR excellent knowledge of men and things will prevent your being surprised, or offended, that your Brother is not included in the promotion of Lieutenant-Colonels, advanced to the rank of Colonel, just made. This letter therefore is not intended as an apology, but as *an assurance, that full and perfect justice will be done to him hereafter, if his conduct in India resembles the rest of his conduct through life.* I depend on your giving him this assurance in my name; and am, with great truth and regard,

SIR,

Your most humble, and

most obedient servant,

(Signed) BARRINGTON.

Addressed thus:

*To Andrew Stuart, Esq;
Berkley-Square, London.*

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From

From Mr. Stuart to Lord Barrington.

My Lord,

Edinburgh, October 3d, 1777.

I Have received in this country the letter which your Lordship did me the honour to write to me lately. It was addressed to me in Berkley Square, but I had left London two or three weeks before that time; and by my moving from place to place, since my arrival in Scotland, it was a long time after the date before it reached me.

I cannot but feel myself under great obligations to your Lordship, for the kind attention which gave rise to that Letter. The intelligence of my Brother's being passed over in the late promotion would have been doubly distressing, if it had not been alleviated by the obliging manner in which you have been pleased to communicate to me this event; and by the assurances which you authorise me to impart to my Brother, of the full and perfect justice which is intended to be done to him hereafter.

Convinced, as I am most sincerely, of your Lordship's kind intentions towards my Brother, and having reason to be persuaded of your good opinion of him as an officer, and as a man, it would be most unreasonable in me to entertain any doubt, that whatever the appearances may be, no real hardship or injury is intended him. Still, I cannot help regretting exceedingly, those unfortunate incidents in India, which have made it appear necessary that such a marked exception should take place with regard to Colonel Stuart at this time.

The interest I take in what relates to my Brother, does not prevent my perceiving the reasons which might present themselves against his being included in the late promotion; it might occur, that as the propriety of his conduct, during the late convulsions at Madras, remains as yet undecided, and as he is to be tried by a *Court-martial* in that country, no mark of his Majesty's favour ought to be bestowed upon an officer in that predicament.

But I cannot divest myself of an apprehension, that this step, which from the best motives has been taken, for avoiding the appearance of partiality, approbation, or favour on the one hand, may be productive of very hard and severe consequences with regard to Colonel Stuart, from the appearance it holds out to the world, on the other hand, that his conduct in the Indian transactions has,

even before his trial in India, been judged of, and disapproved at home; and that in the estimation of his Sovereign, and his Majesty's Ministers, he stands already condemned.

The marked exception of Colonel Stuart from such a general promotion, as that which has now taken place, seems to me to authorise inferences to his prejudice, infinitely stronger, than any that could be made in favour of his conduct, from allowing his promotion in the King's service to take place according to the date of his commission, and as a matter of course, which would not have implied any mark of special favour towards him personally.

As the circumstances of this case are very peculiar, I beg your Lordship's indulgence for submitting them to your consideration.

Colonel Stuart has been for many years an Officer in his Majesty's service, and within these two years he entered, with the King's permission, into the service of the East India Company; it was his fate to arrive in India, in the Summer of last year, at a time when the dissensions between the Governor and Council at Madras had risen to a great height; and though the command of the army was repeatedly offered him by the Governor, it appeared to him to be his duty, as executive officer, and second in the military command, to obey the orders of the Majority of the Council, especially as his immediate commanding officer, Sir Robert Fletcher, was one of that Majority, who signed the orders given to him.

Whether Colonel Stuart acted right or wrong, or whether he was guilty of error in judgment, in the obedience he thus gave, and in the other steps of his conduct in India, is a matter which yet remains to be tried, and the cognizance of it belongs to the East India Company.

While these affairs are in dependence, and while the opinions of the public are much divided concerning the conduct of the principal actors on both sides, in these disturbances at Madras; it seems to be more equitable, that the conduct of an officer of many years standing in the King's service, should be favourably judged of, on account of his character and behaviour while in that service, if these were unexceptionable, than that the uncertain reports or representations of either party, during the heat of faction in the Indian civil commotions, should deprive him of the character so acquired, and of the rights accruing to him in his Majesty's service.

With regard to Colonel Stuart's character and conduct, during the many years he served, and in the various stations he has filled in the King's service, they are certainly not liable to any objection.

On the contrary, the stations in which he was employed, and the manner in which he acquitted himself of the confidence reposed in him during the last war, afford substantial proofs of his being considered as an officer of distinguished merit, particularly his services as Quarter Master General, at the reduction of *Belleisle*,—his behaviour at the taking of *Martinico*, where he commanded a regiment;—and at the taking of the *Havannah*, where he had the command, during the campaign, of a detached corps, and was afterwards selected to command the party which stormed the *Moro Fort*.

The inference made in many places from the exclusion of Colonel Stuart in the promotion now made is, that since his former services, military rank, and behaviour, have availed him nothing upon this occasion, the circumstances of his conduct in India must have been ascertained, and have appeared in the most unfavourable light to his Majesty's ministers, or to those in the management of military affairs; the consequence of which is, that while he suffers greatly in the opinion of the world in general, by this mark of displeasure and disapprobation, he goes to his trial in India, and to the trial of the other incidental questions connected with these Indian occurrences, under the disadvantage of a heavy weight of prejudices against him,—prejudices of the most dangerous nature, on account of the high authority by which they have the appearance of being established.

No person can be more thoroughly convinced than I am, that there was no intention on your Lordship's part, or in any other quarter, to inflict hardships of this nature upon Colonel Stuart; on the contrary I am persuaded, that the true motive of the late measure with regard to him was, that his trial might proceed free from prejudices, either for, or against him.

But as the prevailing opinion of many judicious and impartial persons, with whom I have conversed on this subject, is, that the tendency of the late remarkable exception of Colonel Stuart, from the recent promotion, must, in the circumstances of his case, be such as I have taken the liberty to mention, I thought it my duty to submit these things to your Lordship's consideration.

I shall only beg leave to add, that for my own part, I have the most complete reliance upon your Lordship's good intentions towards my Brother, and have no doubt that, agreeably to the assurances given, full and perfect justice is intended, and will be done to him; my principal anxiety at present is, that during the period which precedes the examination and trial of his conduct in India, there may be no prejudices hurtful to him, nor any appearance of his cause being prejudged.

From

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From the beginning of these Indian disputes, all I have contended for has been, that my Brother should have a fair and impartial trial, and that while it was uncertain, whether he had acted a part that deserved censure or punishment, or on the contrary, had rendered meritorious service to the East India Company, and to the British government, no steps should be taken hurtful to his honour or interest.

His trial by Court-martial was my earnest request to the Directors of the East India Company, because when the conduct of an officer is attacked, his honour requires this mode of trial; but there is perhaps some reason to consider it as an unusual degree of hardship that the following steps should precede that trial.

FIRST. The suspension of Colonel Stuart during six months in consequence of the orders of the Directors of the East India Company, which by many people is esteemed of itself a degree of punishment before trial, and at the same time likely to create prejudices against the person to be tried.

And SECONDLY. That now he has further to contend with the prejudices arising from the marked exception that has been made of him in his Majesty's service, where, though almost at the head of the list of those Lieutenant Colonels who could receive benefit from the late promotion, *thirty-two younger Lieutenant-colonels* have received that rank which has been denied to him.

It is not in the disposition of complaint, or in any degree of bad humour, that I have presumed to state these things; but from a desire to submit them to your Lordship's serious consideration, and in the full persuasion, that your candour and equity will discover the best remedies for these hardships, if they shall appear to you to have any real foundation.

And I beg leave to assure your Lordship, that I should not have troubled you with them, if I were not in my own mind thoroughly convinced that promoting Colonel Stuart in common with others of his rank, at a time when such a general measure was taken, could not be considered, either as an instance of partiality or approbation of his conduct in India, but as a natural consequence of his rank and behaviour in the King's service, to which alone such promotions are applicable.

The withholding this preferment, which is considered as a matter of course where there is no criminality, is liable to be interpreted as what I am sure it was not meant, a decision against Colonel Stuart's conduct in India; and that decision will be supposed to proceed upon proofs that have not reached the public, because it will not be supposed, that without such proofs an officer of tried and approved merit in the line of his profession, should be set aside for a mo-

ment, against the just and established presumption, which makes innocence presumed rather than guilt, until legal conviction puts an end to that presumption.

I beg your Lordship's excuse for giving you the trouble of reading so long a letter; but the duty which I owe to an absent brother, who, at the date of the last advices from him, was flattering himself with the hopes of public marks of approbation instead of punishments or marks of displeasure, made it appear to me unavoidable, and I hope will obtain for me your Lordship's pardon for trespassing so much upon your time.

I have the honour to be, with great truth and esteem,

Your Lordship's most faithful and obedient servant,

(Signed) ANDREW STUART.

From Lord Barrington to Mr. Stuart.

SIR,

Beckett, 16th October, 1777.

I Am to acknowledge the honour of your letter, dated the 3d instant. The polite candour with which it is written claims, and has my best thanks. The matter it contains, I think, may be discussed in conversation better than by letter; I will therefore, with your permission, defer entering into it till we meet. In the mean time you are at liberty to make any use which your prudence and brotherly affection can suggest of the letter I first wrote to you, after the general promotion of Lieutenant-colonels by Brevet. I am, with great truth and regard,

SIR,

Your most obedient humble servant,

(Signed) BARRINGTON.

Addressed thus:

To Andrew Stuart, Esq;

Berkley-Square, London.

A
L E T T E R
TO THE
Right Honourable Lord AMHERST,
FROM
ANDREW STUART, Esq.

[January 3, 1781.]

2

L E T T E R

TO THE

Right Honourable Lord ALBERT

FROM

ANDREW STUART

[Illegible]

MY LORD,

THE duty which I owe to an absent Brother, whose situation stands distinguished by an accumulation of hardships, puts me under the necessity of requesting your Lordship's attention to the unusual circumstances of his case.

It is well known to your Lordship, that my Brother Colonel James Stuart had the honor to serve his Majesty during the course of last war; and that in the various branches of military duty which fell to his share in Europe, North America, and the West Indies, he conducted himself to the satisfaction of his several respectable Commanders, and acted with reputation to himself, and utility to the Public.

During the peace which followed, Colonel Stuart turned his thoughts towards the service of the East India Company, and before the commencement of the present war, having, by his Majesty's permission, entered into that service, he sailed for India in the month of November 1775.

The situation in which he went to India, was that of Second in Command of all the East India Company's Forces upon the Coast of Coromandel, with the rank of Colonel; and, by express appointment from the East India Company, it was settled, that upon the death, resignation, or removal of Brigadier-general Sir Robert Fletcher, at that time Commander in Chief upon the Coast, and in a declining state of health, Colonel Stuart should succeed to that Command, and to the rank of Brigadier-general, in the same manner as they were enjoyed by Sir Robert Fletcher.

Colonel Stuart arrived at Madras in the month of May 1776. Sir Robert Fletcher died in the December following; and upon that event Colonel Stuart became of course Commander in Chief upon the Coast, with the rank of Brigadier-general in the Company's service.

In the month of August 1777, a Promotion of Officers in his Majesty's service took place; at which time a great number of Lieutenant-colonels obtained the rank of Colonel.

My Brother was then near the head of the list of those Lieutenant-colonels who were entitled to rank from that promotion; but that rank was withheld from him, while Thirty-two Lieutenant-colonels, younger in the service, were made Colonels upon that occasion.

Since the month of August 1777, the list of Officers now above him, and who were at that time below him, is increased by the number of Fifty-nine; so that since Colonel Stuart went to India, there are now no less than Ninety-one junior Lieutenant-colonels who have got rank over him, and to his prejudice, besides Forty-six Officers of Militia, Four of Fencibles, One of Artillery, and Five of Marines, who have likewise got the rank of Colonel in that period.

The first intimation of my Brother's being left out of the Promotion of August 1777, was by a Letter to me, then in Scotland, from Lord Barrington, the Secretary at War, dated the 3d of September 1777. A copy of that letter, and of my answer, and of a second letter received from his Lordship on the same subject, in October 1777, I have now the honour to inclose to your Lordship.

These letters do not expressly specify the motives for withholding the rank which Colonel Stuart was at that time intitled to expect, nor do they mention the time during which this suspension was to be continued, or what circumstances should be deemed sufficient to put an end to it.

There is, however, one paragraph in his Lordship's letter of the 3d of September 1777, which gives reason to conclude, that the disturbances which had happened at Madras in the year 1776, and of which
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the most alarming reports had been spread in England, were the sole cause of with-holding from Colonel Stuart the rank in question, until it should be known what his conduct had been in these disturbances, and what had been the consequences of them in the Settlement at Madras.

The paragraph here alluded to, is in these words: " This letter therefore is not intended as an apology, but as an assurance, that full and perfect justice will be done to him (Colonel Stuart) hereafter, if his conduct in India resembles the rest of his conduct through life. I depend on your giving him this assurance in my name," &c.

From the terms of the above letter, as well as from the general tenor of Colonel Stuart's conduct and military character, there are two inferences which seem unavoidable.

The one is, that the hardship inflicted upon Colonel Stuart, at the time of the promotion in 1777, did not take its rise from any part of his conduct *while in his Majesty's service*.

The second inference is, that the keeping his rank in suspense was meant only to be a *temporary* measure, until authentic accounts should be received of the nature and consequences of these disturbances at Madras, in the year 1776, and of Colonel Stuart's conduct upon that occasion.

If it be admitted, and no one can dispute it, that the with-holding from Colonel Stuart his rank, did not proceed from any part of his conduct *while in his Majesty's service*, but that, on the contrary, he was held in estimation as an active, intelligent, and deserving officer, military men, with whom I have conversed on the subject, are of opinion, that upon these admitted facts, Colonel Stuart might reasonably have expected the benefit of a promotion which is allotted to officers in his Majesty's service, merely on account of their standing in that service; and that it would likewise have been natural to expect, that no rumours or reports about his conduct in the service of the East India Company, should have had the effect of depriving him, even for a moment,

of that preferment which he had earned, both by the number of years he had served in the King's army, and by the active and useful services in which he had been engaged.

It has further been observed, that what made it less reasonable that this rule should have been departed from, is, that those from whom Colonel Stuart holds a commission in another service, have in their own hands sufficient power to make him, or any other officer in their service, feel severely the effects of their displeasure, if he should be found to have merited it, after a proper enquiry or trial, which they of themselves have sufficient authority to institute.

And finally it has been remarked, that the mere *possibility* of an officer's having been guilty of offences in another service, ought not at any period preceding his trial and conviction, to prevent his receiving, as a matter of course, the benefit of a promotion in his Majesty's service; and this proceeds upon the plainest principles of justice, confirmed by constant practice, that every man is presumed to be innocent, and so treated, until he be actually proved to be guilty:—but in the present case, the strongest additional reasons concurred, because upon the supposition of Colonel Stuart's being tried and justly convicted in India, subsequent to his promotion in the King's service, it would always have remained, as it undoubtedly ought, in his Majesty's breast, to deprive him of all benefit from that and every other promotion, by dismissing him from his service.

In my letter to Lord Barrington, in the month of October 1777, I communicated some observations of this nature; but these observations were unavoidably too late for the desirable purpose of prevention, as before they could reach his Lordship, and indeed before any intimation was given to me on this subject, the hardship complained of had been actually done.

Having thus as concisely as possible brought under your Lordship's view the reasons which induced judicious and military men to be of opinion,

opinion, that Colonel Stuart had a just pretension to be included in the promotion of the year 1777, I shall not presume to take up more of your Lordship's time unnecessarily, on this branch of the subject, but shall proceed to shew, that even if the exclusion of Colonel Stuart from the promotion in 1777, could be considered as originally RIGHT, yet the further prolongation of that hardship would now be WRONG, as the *ground is essentially changed*, and none of the reasons on which the first measure of denying Colonel Stuart his rank was justified, can be thought in any degree applicable to the further continuance of this unusual and mark'd discouragement to an officer in his Majesty's service.

For establishing the truth of this assertion, it will be proper, in the first place, to mention to your Lordship the reports which were circulated in this country about the Madras affairs, and to state the best reasons which I have ever heard offered, for the measure of withholding from Colonel Stuart the benefit of the promotion in the year 1777: intreating, at the same time, your Lordship's particular attention to the very material difference there has been between the first reports that were current here, and the facts as they have since turned out.

The reports and alarms which, in the year 1777, had come over from India, concerning the transactions at Madras, in the month of August 1776, when Lord Pigot was arrested and confined by military force, had not only excited a great flame in this country amongst those who were attached to Lord Pigot, but they had likewise produced in many quarters an apprehension about the safety of the settlement where these transactions had happened. Some men really believed, that the settlement was in danger, either from the Company's servants, or from the country powers in India, or from both. A civil war, anarchy, and confusion, were represented as the unavoidable consequences of what had happened; and as it had fallen to Colonel Stuart's lot to carry into execution the orders issued by the Majority of the Council at Madras, for taking possession of the Fort at Madras, and for arresting

and

and confining, by military force, the person of Lord Pigot; he, Colonel Stuart, was represented and considered as a person principally concerned in those disturbances. Not only so, but it was reported, and loudly asserted, even at General Courts of the India Proprietors, that Colonel Stuart had got the army at his devotion; that he would set up for himself, and disregard any orders issued from England.

Such were the reports and alarms which prevailed. Under their influence (as is supposed), the measure of excluding Colonel Stuart from the promotion in 1777 was taken, and this supposed cause of that measure certainly formed its best justification. Permit me, therefore, once more to request your Lordship would observe, how totally different every thing has turned out in point of Fact; for the alarms and imaginary terrors, entertained in the year 1777, have now been long dispelled, and the injustice done to Colonel Stuart, by supposing him capable of such conduct or intentions, has been made manifest by the most authentic and unequivocal proofs.

Instead of confusion and civil war, there never was a more settled state of peace and security, than that which took place throughout the whole extent of the settlement of Madras, during the period of that government, which commenced in the month of August 1776, and continued till the month of August 1777; and, notwithstanding the temporary dissensions in August 1776, it is admitted, that while these dissensions were at their greatest height, even at that very critical period, not one life was lost; and that subsequent to the act of confining Lord Pigot, no individual in the settlement sustained any injury, either in his person or property.

Instead of resistance on the part of Colonel Stuart, as had falsely been predicted in this country, there has been the most uniform and implicit obedience paid by him to the orders from home.

When Mr. Whithill arrived at Madras, in the month of August 1777, with the new commission of government, Colonel Stuart was the first person who accompanied the new Governor to the parade; was present

at the public reading of that new Commission of Government, and of the order for his own *suspension*.

His behaviour upon that occasion is described in the following paragraph of a letter from the new Governor and Council at Madras, to the supreme Council of Bengal, dated the 31st of August 1777.

" We think it also necessary to observe, with respect to Brigadier General Stuart, whose situation in the late transactions was peculiar, that he shewed the same implicit obedience, on his part, to the authority of the Company; attended on the parade at the reading of the Company's Commission of Government to the troops, and was studious, by his whole conduct, to shew to the officers and soldiers the proper sense which he entertained of the Company's orders."

Such was the conduct of Colonel Stuart, at the time when the first accounts were brought to him of his being suspended from the Company's service, during six months, though no specific crime or charge was alleged against him in the order for suspension; and though he thus found himself deprived of the command of an army, which it had been his study and his pride to improve for the advantage of the State, and of the East India Company; and accordingly much credit had accrued to him from the success of the measures he had taken for putting it on the most respectable footing.

At the distance of some months after the arrival of this first order by Mr. Whithill in August 1777, additional orders from the Company were brought to Madras in February 1778, by the new Governor, Mr. Rumbold, who had left England in the month of July 1777. By these orders, Colonel Stuart found himself *superfeded* in the command, by the appointment of another officer, Colonel Munro, who was sent from England, on purpose to take the command of the army at Madras; and this appointment carried with it, according to the military *etiquette*, an additional circumstance of mortification, as Colonel Munro was a junior officer in the King's service.

The orders thus brought by Mr. Rumbold inflicting a hardship on Colonel Stuart, the more severe as no provision was at that time made

about his being restored to the command of the army at any period, or in any event, met, however, with the same implicit obedience on Colonel Stuart's part; and thus the new Commander in Chief, as well as the new Governor, found the settlement in a perfect state of obedience and tranquillity, without the smallest symptom of a disposition in any quarter, civil or military, to question or resist the orders of the East India Company.

The refutation which the above state of facts contains of the reports which prevailed in England in the year 1777, forms one very important branch of the proofs by which I hope to satisfy your Lordship of the *change of situation*; since it must be evident from what has been stated, that, in one material respect at least, the circumstances under the influence of which Colonel Stuart was excluded from his promotion, are now not only unquestionably changed, but totally reversed.

I shall next beg leave to mention to your Lordship some other particulars, which shew still stronger the very essential change of situation.

In the month of July 1777, the Directors of the East India Company, at the same time that they sent out by Mr. Rumbold a new commission of government to Madras, sent out orders for calling home to England all the civil servants of the Company who had composed the Council at Madras at the time when the disturbances happened there; and with respect to the military officers who, in the arrest and confinement of Lord Pigot, had acted in obedience to the orders of the Majority of Council, directions were sent out by Mr. Rumbold, that they should be suspended the service, and tried by a Court-Martial. This order for suspension and trial related particularly to Brigadier-General Stuart, Lieutenant-Colonel Horne, Captain Edington, and Captain Lyfaught.

I take it for granted, that, in the month of August, when the general promotion of officers in the King's service took place, the Secretary at War had heard of this order, which, in the preceding month

of July, had been sent out by the India Directors; and if so, the knowledge of this step taken by the India Directors might induce the Secretary at War to consider that order in the same light in which he would have considered an order, under the royal authority in this country, for the trial of an officer by a Court-Martial for offences committed in his Majesty's service; in which case, I have been told, that the promotion of such officer is generally kept in suspense, until the event of his trial is known.

But these two cases are, in many respects, which will readily occur to your Lordship, so essentially different, that they cannot, I apprehend, without manifest injury to his Majesty's service, be considered as on the same footing; and it must be obvious, that many hurtful and inconvenient consequences would arise, if it were to be assumed as a principle at the War-Office, that when an Officer by the King's permission enters into the service of the East-India Company, he is, from that moment, to be subject to have all his future expectations in his Majesty's service, as well as all the consequences of his former merits in that service, regulated implicitly by the proceedings and opinions of the Directors of the East-India Company, or their Servants in India.

I am ready, however, to admit, that at the time of the promotion in 1777, it might very naturally and reasonably be presumed by the Secretary at War, that the orders given by the East India Company for Colonel Stuart's trial by a Court-Martial would, as speedily as possible, be obeyed by their Servants at Madras; and, therefore, that the intermediate short delay, by not allowing him the benefit of a promotion in his Majesty's service until the event of that trial was known, could not be very prejudicial either to his honour or his interest.

But in this the event has proved so contrary to all reasonable expectation, that if the measure of stopping Colonel Stuart's rank in the King's service proceeded at all upon the orders then recently sent by the India Company for his trial by a Court-Martial, and upon the idea that he would speedily have an opportunity, by that trial, of getting justice done to his character and conduct, there must now be the strongest reason

for reversing a measure founded upon a supposition which in the event has been found to be totally erroneous, and in its consequences highly injurious to Colonel Stuart. For the real fact is, that notwithstanding the orders sent out by the India Company in July 1777, for his immediate trial by a Court-Martial, that trial was, in the beginning of the year 1778, refused by the Governor and Council at Madras; and notwithstanding the renewed peremptory orders sent out in the month of December 1778 for his trial, the benefit of that trial by a Court-Martial has again, in the beginning of the present year 1780, been refused to him.

As no part of the Secretary at War's letter to me has specified the motives or particular grounds on which it had been judged proper to withhold from Colonel Stuart the benefit of the promotion in the year 1777, I have thought it necessary to consider these motives, under the only two possible aspects in which I apprehend they are capable of being considered,—as proceeding either from the reports then current, or from the orders that had been given by the India Company for his trial by a Court-Martial.

But it has been shewn, that, upon either of these principles, *the ground is totally changed*.—If the reports about the safety of the Settlement, or the rumours spread about the consequences of the conduct imputed to Colonel Stuart, gave rise to the measure, these reports and rumours have been proved to be false.—If it proceeded on a supposition, that Colonel Stuart's trial by a Court-Martial would certainly and speedily take place, the event, after repeated experiments, and after subjecting him to the most cruel state of suspense during several tedious years, has totally destroyed that supposition.

The fact of Colonel Stuart's being twice refused in India his trial by a Court-Martial, is very generally known; and it is also known, that, upon both occasions, that trial was earnestly solicited on his part: but the
strongest

strongest proof of this will arise from the perusal of the proceedings at Madras in the years 1778 and 1780, while the granting or refusing the Court-Martial was in agitation. I have therefore taken the liberty to accompany this Letter with a full and exact state of these proceedings.

The contents of these papers are material, because they not only contain the most unquestionable proofs of his zeal to be tried, and of the strongest efforts used by him to bring on that trial without delay, but because they also contain the reasons given by the Governor and Council at Madras for refusing the trial.

Thus, in the General Letter to the Court of Directors from the Governor and Council at Madras, dated the 14th of March 1778, there is the following paragraph on the subject of the first trial that was ordered :

“ General Stuart, as soon as he was furnished with a copy of your orders, and before we came to any resolution concerning him, addressed three letters to us, all of them pressing upon us, in the most anxious manner, his desire to be tried by a Court-Martial; and fearing lest any doubts or difficulties should occur to us on the subject, he introduced several arguments to shew his right to demand a Court-Martial, and pointed out different articles in the Articles of War, by which he thought he might be tried. Although his letters did not contain any reasons of sufficient strength to induce us to alter our opinions upon his case, yet the uneasiness of mind expressed in them was such, that we felt much concern for the peculiar circumstances of his situation.”

Here it is proved, by the most unquestionable authority, that of the very persons who refused the Court-Martial, and who were endeavouring to justify themselves to the Court of Directors for disobedience to their orders, that it was not owing to any fault or reluctance on the part of Colonel Stuart that the trial had not proceeded; on the contrary, that he had used every effort to promote it.

Other parts of the same letter from the Governor and Council at Madras, shew that the reasons which induced them to refuse the trial, were chiefly founded on prudential considerations, and upon a doubt whether

A Court-Martial was competent to decide upon a case which involved questions of nice discussion, relative to the Company's constitutional Government. This is expressed very clearly in the following paragraph of their Letter :

" The acts of arresting and imprisoning the person of the late Lord Pigot
 " were sufficiently clear. Your disapprobation of those acts is strongly ex-
 " pressed in your late orders ; but that disapprobation does not make them
 " offensive in the eye of martial law, and no charge could be grounded upon
 " it. In order to determine whether General Stuart's conduct be criminal
 " in that view, and before any charge could be prepared, it became requi-
 " site to consider the nature of the orders and authority under which he
 " acted, with other particular circumstances attending the arrest of Lord
 " Pigot. The Company's Records, and General Stuart's own Narrative
 " of the transaction, clearly shew, that his Lordship was arrested by an
 " order under the signature of George Stratton Esquire, Sir Robert Flet-
 " cher, Henry Brooke, Charles Floyer, Archdale Palmer, Francis Jour-
 " dain, and George Mackie, Esquires ; which order General Stuart, in
 " the Narrative, declares he considered as legal, and the Gentlemen who
 " issued it the legal Representatives of the Company. GENERAL STUART
 " APPEARS TO HAVE DONE NOTHING IN THIS TRANSACTION IN-
 " DEPENDENT OF THAT AUTHORITY WHICH GAVE HIM THE
 " ORDER. If that authority were clearly illegal, or the order illegal, the
 " arrest and imprisonment of Lord Pigot, by military force, may be deemed
 " an act of mutiny, and the persons concerned liable to be tried, by an ex-
 " press article of war ; but we own to you, these questions appear to us to
 " be of so nice and important a nature, that we did not think ourselves com-
 " petent to form a judgment upon them, with that precision which was
 " necessary to constitute and maintain a charge against an Officer for a crime
 " deemed capital by martial law."

The paragraph here copied expresses distinctly the grounds on which the Court-Martial was refused ; but it is material in another respect, inasmuch as it contains the opinion of the Governor and Council at Madras, with regard to the full extent of what could be alleged against Colonel

Colonel Stuart, and the ground on which he must be tried, if ever his trial should take place; for it expressly declares, not only that he had acted under the authority of an order from the Members of the Council therein named, (which is a fact proved indeed by the written orders themselves still extant); but it is material to observe, that it further contains the opinion of the Governor Mr. Rumbold, the Commander in Chief General Munro, and the other Members of the Council at Madras (the very persons to whom the orders for granting the Court-Martial were directed), " That Colonel Stuart " appeared to have done nothing in this transaction independent of that " authority which gave him the order;" from which the inference made by the Governor and Council is, that the sole foundation for constituting or maintaining a charge against Colonel Stuart, must depend on the *legality* or *illegality* of the order and authority under which he acted.

The matter having been brought to this issue, it could be judged of in England as well as in India, and might be judged of without the intervention of a Court-Martial as well as with it.

The Letter, from the Governor and Council at Madras, to the Court of Directors, dated the 12th of February 1780, which makes part of the printed collection now transmitted to your Lordship, expresses the reasons which induced them, a second time, to refuse the trial which had been ordered by the Directors, and so earnestly solicited by Colonel Stuart. These reasons are, in most respects, similar to those which had been assigned by them for refusing the Court-Martial in the year 1778.

This appears particularly from the following paragraphs of their Letter of the 12th of February 1780:

" You leave it to our judgments to form the specific charges; and having so done, the responsibility of the measure rests almost entirely upon us, " without

“ without any clue to guide us through the embarrassments which we formerly stated, and which are rather increased than diminished by the opinion of the Law Counsel; for those Gentlemen have taken away from this case the point upon which we conceived the conduct of Brigadier-general Stuart, in a military view, principally turned, namely, the legality or illegality of the authority by which he acted, and have given us nothing to go upon in its room; since they declare, that whether his conduct, in executing the order, can or cannot subject him to a charge of Mutiny, depends on circumstances, of which they have no proper information.”

The Letter then proceeds in these words:

“ As the late Lord Pigot was arrested at the distance of half a mile beyond the walls of the garrison, a natural question arose, which we stated in our Letter of the 14th of March 1778, relative to the extent of his command as Governor of the Fort. General Munro's opinion on this subject, which we have already recited, declares, that the arresting Lord Pigot, out of the Fort, was an act which did not come under any article of war. This is a point which seemed to us material to have been ascertained; but your instructions, and the opinions of the Council, are quite silent on the subject.”

The whole tenor and progress of the proceedings at Madras, in the years 1778 and 1780, on the subject of the Court-Martial in question, clearly indicate, that it was the opinion of the Governor, the Commander in Chief, and the Council there, that unless Colonel Stuart could be made subject to a charge of MUTINY, for the arrest of Lord Pigot, there could be no foundation for bringing him to a trial by a Court-Martial: at the same time they have clearly shewn their opinions, and the opinion of General Munro the Commander in Chief, that as Lord Pigot had been arrested out of the garrison of Fort St. George, this was an act which did not come under any article of war.

The principal, if not the only hesitation with the Governor and Council at Madras, seems to have been, whether Colonel Stuart might not be brought in as guilty of *Mutiny*, by making him *responsible* for the *legality*
or

or *illegality* of the order under which he acted. But any idea of involving him in the crime of *Mutiny*, in this way, was obstructed by the Law opinions that had been sent from England, where the Attorney and Solicitor General, and other eminent Counsel, had given it as their opinion, "*That it would not follow as a necessary consequence, that the illegality of the order would subject the Officer to a charge of 'Mutiny.'*"

On this point there are so many facts and arguments in justification of Colonel Stuart's conduct, that, supposing the *illegality* of the order to be clearly established, there can be no chance of his being involved in a charge of *Mutiny* by that means; although it must be owned that, from the expressions of the Letter from the Governor and Council at Madras to the Directors, there seems to have been a strange idea entertained on their part, that it might be possible to involve Colonel Stuart in a *capital offence*, by this new species of *Mutiny* which had occurred to them, though not thought of or expressed in the *Mutiny Act*, or in the Articles of War.

Upon the whole, therefore, of what has passed in the course of canvassing this matter, it cannot be unreasonable to maintain, that although there has been no formal sentence of a Court-Martial upon Colonel Stuart, yet facts have been ascertained, and opinions given, which, in a case of this nature, ought to be considered as *equivalent to the sentence of a Court-Martial*.

The circumstances of Colonel Stuart's case, from the full printed state of it which I gave in to the India Directors in December 1778, and from other means of information, are now so fully known, that these, joined with the opinions above mentioned, given by the Commander in Chief, and the Governor and Council at Madras, and with the opinions quoted of the Law Counsel in England, may fairly be allowed, in a case so peculiarly circumstanced, to have the same effect as if Colonel Stuart had succeeded in the repeated requests he so earnestly made, for having the judgment:

judgment of a Court-Martial, with all the forms that usually attend it.

Such interpretation may with the more reason be contended for, as Colonel Stuart and his friends, from the year 1777 to the present year 1780, have, in the face of every possible hazard with respect to him personally, not only provoked and solicited a trial by a Court-Martial, but demanded it as his right. And it ought further to be considered, that, by the hurtful and mortifying delays and disappointments in the course of those years, he has already suffered more than any Court-Martial could possibly have inflicted upon him, even if he had been found guilty of what is laid to his charge.

The proof of this assertion leads to a new subject; and I flatter myself it will be found, that the assertion is not rashly made, when your Lordship considers what I am now to state, concerning a memorable trial that happened last year in Westminster-Hall.

The whole of the transactions at Madras, in the year 1776, and particularly what related to the disturbances at the time of the seizure and confinement of Lord Pigot, have, in the course of this last year, undergone a strict and solemn scrutiny in the court of King's Bench, in a prosecution by his Majesty's Attorney General against Mr. Stratton, and the other members who composed the Majority of the Council at Madras, when Lord Pigot was seized and confined by their orders.

In that proceeding, those members were charged with assuming the government in August 1776, and with the seizure, confinement, and detention of Lord Pigot, and for having issued the orders to Colonel Stuart, in consequence of which Lord Pigot was so seized and confined.

The persons accused acknowledged the assumption of the government, but defended themselves on the ground of civil or political necessity, on their being in duty bound to prevent the subversion of the constitution, which, they alledged, had been manifestly attempted by several violent, illegal, and despotic acts on the part of Lord Pigot.

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They further maintained, that the legal government of Madras was vested, *not* in the Governor with a *Minority* of Council, but in them the *Majority* of the Council; and that the measures they had taken were under the firm persuasion, that this was the true Government of the Madras Presidency; in short, that they had acted upon the true principles of that constitution, upon the necessity of the case, and upon motives of public utility; and that, in fact, the peace and safety of the settlement had been preserved by what they had done, and that the affairs of the East India Company in that settlement had prospered greatly during their administration.

There never was a cause prosecuted with more zeal, or more abilities; and though the jury brought in a verdict against Mr. Stratton and the other gentlemen, for assuming the government, and for having issued the orders for seizing and confining Lord Pigot by military force, and for having afterwards detained him a prisoner; yet the Judges of the Court of King's Bench, after weighing the whole of the evidence for and against the persons accused, pronounced an unanimous judgment, by which the total extent of the punishment inflicted by them was a fine of *One Thousand Pounds* to be paid by each of the defendants.

One consideration that weighed with the Judges in their decision, as appears from their opinion delivered by Sir William Ashhurst, was, that the measures taken by Mr. Stratton, and the other Members of the Majority of Council, in the month of August 1776, had been first produced by several arbitrary and illegal acts on the part of Lord Pigot, which were strongly arraigned in the opinion delivered by the Judges of the King's Bench;—but besides this, attention was also paid to the various other particulars above mentioned, which had been urged by the defendants in justification or alleviation of their conduct.

Here it is highly proper to remark, that from what passed at the time of pronouncing this judgment, there is reason to doubt whether the fine would not have been restricted even to a lesser sum, if the defendants had not been considered as particularly blameable for suspending (after they had assumed the government) four of the Members of Lord Pigot's

Council, Messrs. *Russell, Dalrymple, Stone, and Latbam*. Great weight was laid upon this circumstance of the defendants conduct. The Judges upon the trial particularly condemned it, and remarked, that in this the defendants had followed the conduct which they themselves had condemned in Lord Pigot. But in so far as this offence, committed by the Members of Council, had effect in producing the judgment that was pronounced against them, no inference can be made from it against Colonel Stuart, or the other military officers, who were employed only for carrying into execution the orders they had received for seizing and confining Lord Pigot; for neither Colonel Stuart, nor any of these Officers, were Members of the Council which suspended Messrs. *Russell, Dalrymple, Stone, and Latbam*.

The inferences from the whole of what thus passed, upon the most solemn trial of those Members of the Council at Madras, must, I am persuaded, have been already anticipated by your Lordship.

When we see that the Members of the Majority of the Council had, by a verdict of their country, been found guilty of assuming the government, and of issuing the orders for seizing and confining Lord Pigot, &c.; and when it appears that the circumstances in *mitigation* of their offence, after such a verdict, had the effect to restrict the total amount of the punishment, inflicted by the Judges, to a fine of One Thousand Pounds;—it must certainly follow, that Colonel Stuart, who did *not* usurp the government, who was *no* Member of Council at the time of Lord Pigot's confinement, who issued *no* original order, but only obeyed the orders he had received from the Majority of Council, in whom he firmly believed the legal powers of the government to be vested;—I say it must follow, that upon these grounds he would have been absolved from any punishment or fine whatever; or at the most, that any fine or censure allotted to his *inferior offence*, must have been reduced to something so insignificant, as to be free from any prejudicial consequences; for, in the report made by the present Governor and Council at Madras, to the India Directors, it is expressly said, “ Colonel Stuart appeared to have done nothing in

"this transaction independent of that authority which gave him the
"order."

The prevailing opinion, in the settlement itself, had long been, that the legal government was vested in the Majority of Council, and this also was the opinion of the Supreme Council at Bengal. The East India Company themselves, by their Instructions sent out by Mr. Whithill, in the year 1777, declared the legal government of Madras to be vested in the Majority of Council; therefore, supposing it to be afterwards discovered, upon a very nice investigation in courts of law, that the Majority of Council had not the complete legal government vested in them, excepting in certain cases, and under certain restrictions; yet it could never be expected of a military man, that he should be so much master of all these niceties and distinctions, as to render him culpable for a mistake in a point of law, and for believing, in common with many others, that the Majority of the Council had a complete right to require obedience from him, especially as his immediate superior Officer, Sir Robert Fletcher, the *Commander in Chief of the army* (a circumstance to which I beg leave to call your Lordship's particular attention), was one of the Members of that Majority who signed the orders which Colonel Stuart obeyed.

These things would, in any tribunal, have necessarily been taken into consideration for justifying Colonel Stuart's conduct, or, at least, for alleviating any fine or punishment that might be allotted to his offence, if it could be supposed, that, in such circumstances as those which have been described, he was in any degree responsible for the *legality* of the orders which he received and obeyed.

This necessary inference from the proceedings, and from the judgment given in Westminster-hall upon this occasion, is one reason why I have thought it proper to state them to your Lordship; and another reason for stating these proceedings, which happened only within these twelve months, is, because they make an additional and important branch of the circumstances by which I meant to prove an essential

change of situation since the year 1777, when it was thought proper to withhold from Colonel Stuart the benefit of the promotion of that year.

I shall now conclude what relates to the *change of situation*, by requesting your Lordship's attention to a very honourable testimony, which has, in the year 1779, been given by the East India Directors, with respect to Colonel Stuart's general conduct in India, in matters civil and military, unconnected with the events of the month of August 1776, so often alluded to.

In the beginning of the year 1779, the Directors of the East India Company thought it proper and suitable, on their part, to take a particular view of Colonel Stuart's conduct, from the time that he had entered into their service. This they were enabled to do, from the Records and Consultations of the Madras Presidency, in their possession at the India-house; and the object of this scrutiny, as expressed by the Directors themselves, in their Letter to the Governor and Council at Madras, dated the 14th of April 1779, was, that they the Directors might be able "to communicate to the Governor and Council at Madras such remarks and instructions as might be necessary for their guidance, in case General Stuart should be acquitted by a Court-Martial."

The Letter then proceeds to state the various particulars of Colonel Stuart's conduct, as proved by the Records; and upon each article so proved, an explicit opinion is given by the Directors. Thus the first article is expressed in these words:

"The memorial, estimates, and calculations of General (then Colonel) Stuart, of the 16th December 1776, and 20th January 1777, are convincing proofs of his possessing the most perfect knowledge of the Company's military affairs and political interests on the Coast of Coromandel, and of his attention to every thing necessary for the security of our possessions on that coast," &c. &c.

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In the same manner the Directors then proceed to give their opinion upon various very material transactions that had occurred in India, in which Colonel Stuart had been principally concerned; and the result of the whole is a strong and marked approbation of his conduct.

The whole of the Letter here alluded to is creditable for the Directors, from the proof it contains of their attention to the behaviour of their servants in India, and of their anxiety to separate those parts of their conduct which had not been hitherto totally cleared up, from those which were evidently meritorious.

The testimony above mentioned, given by the East India Directors, and supported by the evidence of the Records, is not of that sort which conveys an idea that Colonel Stuart's conduct was *merely unexceptionable*, but it ascribes to him the *positive merit* of signal services rendered to the Company by his active and useful efforts, both in his military capacity, and in the exercise of the civil functions belonging to his station during the time that he was a Member of the Council of Madras, after the death of Sir Robert Fletcher.

The discovery thus made, in the beginning of the year 1779, of the services that had been rendered by Colonel Stuart, made a proper impression on the Directors, who gave that honourable testimony of his conduct, and appears to have excited in them a desire of rewarding his zeal, not merely by the tribute of applause, which their Letter contains in terms the most flattering for him, but further by resolutions in his favour, different from any that had been taken since the period that the first accounts were brought to this country of the Madras disturbances; for till this Letter in April 1779, all the resolutions and instructions sent to India respecting him, carried evident marks of severity and unlimited hardships.

The instructions in June 1777, by Mr. Whithill, *suspended* Colonel Stuart from the service for six months, without any specific charge made against him; those sent out by Mr. Rumbold in July 1777, *superfeded* him in the command of the army, and appointed, that he should be

tried by a Court-Martial ; but in case he had been guilty of no crime which martial law could reach, then it was ordered, that his suspension from the service should be continued, and that he should be sent home. Afterwards the instructions of December 1778, sent out by Sir Edward Hughes, contained a renewed order for his trial by a Court-Martial ; but without any provision made for him in the event of his acquittal, or any intimation, that, even in that case, he was to be restored to the command of the army.

However, the instructions contained in the Letter of the 14th April 1779, were wrote in a very different strain from any of the former instructions respecting him, and breathed a very different spirit ; for, after reciting and applauding his merits, and after declaring their opinion of Colonel Stuart's ability to render the most important services to the Company, the Letter of April 1779 (a copy of which is annexed), concludes with expressing a desire, that, in the event of his acquittal, he should remain in India as Second in military command during the continuance of General Munro (who had given notice, that he meant to return to England in the course of the year 1780) ; and directs, that he, Colonel Stuart, should succeed to the Chief Command of the troops on the Coast, upon the first vacancy that should happen after his acquittal by a Court-Martial.

These proceedings do certainly infer a very marked *change of situation* subsequent to the period at which the Secretary at War, from his uncertainty about Colonel Stuart's conduct in India, thought proper to advise the withholding from him the immediate benefit of the promotion in his Majesty's service.

I have now, my Lord, finished all the proofs I meant to produce in support of the proposition I had undertaken to establish respecting the *essential change of situation* ; and I apprehend, that the effect of each of the four branches of evidence above referred to, but still more the united

united effect of all of them together, must be, to establish that proposition in the most convincing manner.

I am extremely sorry, that, from the variety and nature of these proofs, they should have imposed upon me the necessity of giving your Lordship the trouble of reading so long, and, I fear, so tedious, a detail of particulars; but in a matter, where the character and conduct of an officer have been called in question, and where his situation in his Majesty's service has been deeply affected upon the authority merely of rumours and deceitful reports, it is impossible to do justice to his cause, or to afford satisfactory grounds for obtaining redress to him, without producing such a full and accurate state of facts as may be sufficient to afford conviction, that he never has merited the hardships he has met with, and that he is now entitled to have them completely redressed.

I must now beg leave to bring under your Lordship's view, some particulars of Colonel Stuart's MILITARY SERVICES; and shall then hope to be indulged with a few observations upon the singularity of the unfortunate situation, in which he feels himself at this moment involved, both with respect to the King's service and that of the East India Company.

From the time that Colonel Stuart arrived in India, he applied himself zealously to every thing that could tend to the improvement of the army; he planned, and carried into execution, many useful regulations relating to the troops, the military posts, and garrisons belonging to the Company, and likewise those of the Nabob of Arcot. He made himself master of accurate knowledge relating to the various passes, leading from the territories of the neighbouring princes into the CARNATIC, through which bodies of troops might be able to invade or enter that country; so as to enable him to form a judgment what
posts

posts would be proper to be established, and what other precautions might be necessary for preventing the incursions from these neighbouring powers.

The measures suggested by him in consequence of the knowledge so acquired, and the military regulations which he carried into effect, reflected much credit upon him in India, *where*, even his enemies have admitted the utility of his efforts and of his unremitting attention to all the various branches of his military duty.

The army was in many respects new-modelled by him, particularly the *battalions of Sepoys*, the number of which was augmented, and arranged upon a plan different from the footing on which they had ever formerly been. I have in my possession copies of the Memorials and Estimates, which, after much pains bestowed in acquiring accurate information, and after much attention to the subject, were framed by him, and gave rise to this measure. These papers were shewn to the late General Harvey, and other experienced officers in this country, who testified the highest approbation of Colonel Stuart's plan, and of the reasons given by him in support of it; and, fortunately for the interests of the State, as well as those of the Company, that plan was adopted by the Government of Madras, and carried into execution while Colonel Stuart was Commander in Chief of the army.

The important consequences of this well-timed attention to the state of the army, and to the Company's military concerns on the coast, were felt in the year 1778, when the orders from England arrived for undertaking the siege of PONDICHERRY.

These orders were capable of being carried into speedy execution, merely from the circumstance of there being an army ready formed, and fit for the most important enterprises; the merit of which preparations has universally been given to Colonel Stuart: and it has also been admitted, that the enterprise against *Pondicherry*, undertaken when the season was far advanced, and completed but a few days before the season when the monsoons in that climate would have increased every difficulty,

difficulty, could not have succeeded, if the army, in point of discipline, numbers, and arrangement, had not been put by Colonel Stuart on the respectable footing in which it was found at the time when the orders from England arrived for undertaking that siege.

Among other strong and express testimonies to this effect, there is a Letter from the Governor of Madras to the Chairman of the East India Company, dated the 31st of October 1778, and brought to the India-house at the same time with the first accounts of the success of the troops against Pondicherry.

The paragraph of the Letter relating to Colonel Stuart is in these words:

“ I think it necessary to mention to you, in justice to *Brigadier-General Stuart*, that one great advantage on our part, and which enabled us to carry the order of the Court of Directors for attacking *Pondicherry* into immediate execution, was the state in which we found the army upon this establishment at the time of receiving those orders, owing to the very seasonable augmentation that had been made, and the proper military regulations and discipline which had taken place, during the time he commanded the troops.”

In the year 1778, when the accounts reached Madras of the rupture with France, and of the probable prospect of hostilities in India, Colonel Stuart was under *suspension*, had been *superfeded* in the command of the army, and had met with a *refusal* of the demand made by him for his trial by a Court-Martial.

He had also then recently heard of the hardship inflicted upon him in his Majesty's service. His behaviour, however, upon that occasion, in the offer he made of his services against the enemy, in any shape that they could be deemed useful, was such as became him; and he is perhaps intitled to the more credit for it, when it appears how strongly he felt, at that very time, the unmerited severities that had been inflicted upon him. This is strongly painted in his Letter of the 9th of July 1778, to the Governor and Council at Madras, which contains

the offer of his services against the enemy, where he thus expresses himself:

“ Without entering into any further discussion concerning the very
 “ singular hardship of my case, aggravated now almost beyond mea-
 “ sure by a most *unexpected* temporary influence upon my *situation in*
 “ *his Majesty's service*, so as to be upon the whole, as I believe, un-
 “ paralleled in the life of any British military officer; I say, notwith-
 “ standing these circumstances, and although I assert with confidence,
 “ and am ready to prove, that *such conduct towards me has neither been*
 “ *warranted by military practice, nor justified by my own conduct, in any*
 “ *respect*; yet I now take occasion to inform your Honour, officially, of
 “ that call, which for the present stifles in my mind every sense of per-
 “ sonal injury, and which leads me to assure you, in the event of these
 “ last reports from Europe proving true, or in case of any approaching
 “ war in the *Carnatic*, that your Honour will ever find me ready to
 “ serve against the enemy, in any manner you shall see most proper
 “ for the public welfare, during the continuance of hostilities; adding,
 “ with all due respect at the same time, that, in my present view of
 “ things, no earthly consideration will ever, in quiet times, induce me,
 “ of my own accord, to serve the Honourable Company in any station
 “ inferior to that which I had regularly succeeded to by their former
 “ orders, and in consequence of agreement before I left England.”

Colonel Stuart's behaviour on this occasion, and his zeal afterwards for the success of the measures adopted with respect to the siege of *Pondicherry*, produced the following commendation of his conduct, in a Letter from the Governor and Council at Madras to the East India Directors, dated 17th October 1778.

“ Upon the first probability of hostilities commencing, *Brigadier-*
 “ *General Stuart* presented to the Board a Letter, dated July 9th, with
 “ an offer to serve, during the war, in any manner we thought proper
 “ for the public welfare. We felt much concern, from the nature of
 “ your orders in respect to Brigadier-general Stuart, that it was not in
 “ our

our power to accept of this offer. In justice, however, to that officer, we acquaint you, that we have been witnesses of his zeal for the public service, and of the sincerity of his wishes for the success of the measures adopted at this crisis."

In mentioning the peculiar situation in which Colonel Stuart thus found himself, at the time of the enterprize against *Pondicherry*, it is not easy to abstain from some reflections on the severity of his fate; when it is considered, that the person who thus offered, upon that occasion, to serve against the enemy in any situation, was the very person, who, if things had remained in their ordinary course, must, in right of the rank he had attained, have been *Commander in Chief* upon that expedition.

Such opportunities as this for a military man to serve his country, and at the same time to acquire credit and honours to himself, do not often present themselves; and when an officer, to whom his rank and situation open so fair a prospect, finds himself deprived of it by adverse incidents, the disappointment will ever be felt by him as a personal misfortune; however ready he may be to rejoice sincerely with his country upon the success of the enterprize under another Leader, and however cheerfully he may congratulate the Commander who, acting in his place, had merited and obtained the laurels and the honours due to his success.

Without troubling your Lordship with any further detail respecting Colonel Stuart's merits in the service of the East India Company, I shall here beg leave to appeal to the Letter before mentioned, of the 14th of April 1779, signed by the Directors, which contains the most ample testimony of his steady and useful attention to the interests of the Company in their civil as well as their military concerns; and specifies material services rendered by him upon various occasions, where knowledge and good judgment of the true interests of the Company, as well as good intentions, were requisite.

The only part of Colonel Stuart's conduct upon which the Directors were then silent, was what related to the disturbances of the

month of August 1776; as to which they have in that Letter abstained from giving any opinion, favourable or unfavourable, because they considered that matter to be under the cognizance of a Court-Martial; and I may with truth venture to affirm, that the universal opinion was, that the consequence of that trial must necessarily have been an acquittal.

But even with respect to this only part of Colonel Stuart's conduct that has ever been at all called in question, the particulars and motives of it are now fully known to the world from various authentic sources of information, and the prejudices against him personally, grafted on the original false rumours, are now so much subsided, that it would be impertinent in me to take up your Lordship's time in combating them. I have ever avoided entering at all into the merits of the disputes between Lord Pigot and his Council, which gave rise to the disturbances; but I must beg leave to observe, that, with respect to Colonel Stuart's behaviour when matters came to extremities between these parties, there are the most honourable testimonies of the services he had rendered to the India Company and to the State, by the temper, good conduct, and discretion, with which he had carried into execution the orders issued to him by the Majority of Council at the critical period in August 1776.

The Supreme Council at Bengal, who had the best opportunities of being well informed of all the facts and circumstances which preceded, accompanied, and followed the arrest of Lord Pigot, and who were both competent and disinterested judges, gave the highest approbation of Colonel Stuart's conduct.

This appears particularly from the Letters of Governor Hastings and Sir John Clavering, who agreed in this, though their opinions on other subjects had often been different. Governor Hastings, in his Letters which have been published, gives great credit to the mode in which the orders of the Majority had been carried into execution; "*without bloodshed, without tumult, and without the violation of one legal form.*" These are the words of his Letter, where he expresses a degree of admiration of this as "*a thing almost without example.*"

Sir

Sir John Clavering, in his Letter to Colonel Stuart of the 15th of September 1776, not only approves totally of his conduct at the time of the Madras disturbances, but gives him applause for the *honour* of conducting *so difficult and dangerous a business*, and for the *spirit and unanimity* with which he had executed it.

Sir John Clavering continued uniform in that sentiment; and it is well known that he considered the safety and quiet of the settlement at Madras to have been principally, if not totally, owing to Colonel Stuart's conduct. In proof of this, I might appeal to several Letters of General Clavering's, now in this country; and I cannot allow myself to doubt, that the sentiments of a man so honourable, and so well qualified to judge of military merits, as well as of points of honour, must have weight in every quarter where his own personal merits were known. Had he lived to have seen the accumulation of hardships that have been inflicted upon Colonel Stuart,—the man whose conduct he so much approved and admired—such events must not only have been extremely mortifying to Sir John Clavering, but might perhaps have been considered by him, as, in some measure, indignities *offered to himself personally*.

I shall now briefly mention, without any commentary, what Colonel Stuart's fate has been in the service of the East India Company.

He has, in consequence of the first reports brought to this country, been *suspended* from the service, and *superfeded* in the command, of the army; and that command given to a junior officer in the King's service; and all this done without any trial or specific crime alleged against him.

The delusive hopes of a trial by a Court-Martial in India, have, at two different periods, been afforded him, by the orders sent out to Madras for that purpose; and these hopes have been, and *may ever continue to be, defeated* by the Company's servants in India; so that, at this moment, Colonel Stuart is not in any respect further advanced towards obtaining redress for the injuries he has met with, than he was several

years ago, excepting only, that the East India Directors, in the year 1779, after a scrutiny into his general conduct, and after discovering his knowledge of the Company's affairs, and the services rendered by him to the Company, have rewarded him by the tribute of applause; and have declared their resolution, that, upon certain contingencies, he shall be restored to the command of the army; in expectation of which command, he originally went to India, and had already attained it, according to the terms of the agreement made at the time of his entering into the service.

Permit me now, my Lord, to relate what has been Colonel Stuart's fate in *his Majesty's service*.

In the course of the last war, he had the good fortune to contribute, as far as his inferior situation could enable him, to the success of the British arms in many different parts of the world.

The first opportunity he had last war of seeing material active service was in North America in 1758, when he had the honour to serve with the army under your Lordship's command at the siege of LOUISBOURG: The success of that enterprise was, at that time, esteemed a material object to this country in the war with France; and he had the satisfaction of seeing the Place surrender to your Lordship, with the garrison belonging to it, and several line of battle ships which the French then had at *Louisbourg*.

At the reduction of BELLEISLE, in the year 1761, by the British troops, under the command of General Hodgson, he was Major of Colonel Morgan's regiment; and by the appointment of General Hodgson, during the course of the expedition, he acted as *Quarter-master-general*, in consequence of which, he soon obtained the rank of Lieutenant-colonel.

From BELLEISLE he went to the West Indies, and served during all the operations against the island of MARTINICO; the complete con-

quest of which, by the army under the command of General Monckton, was accomplished in the month of February 1762. During that campaign, he commanded the regiment of Light Infantry, which had been raised by Colonel Morgan, who died soon after his arrival at Martinico.

Upon the conquest of MARTINICO, that regiment was immediately ordered upon the expedition against the HAVANNAH; and though Colonel Stuart's health had suffered much at Martinico, he insisted on attending the regiment under his command, and happily, during the passage, recovered so well as to be able to sustain the fatigues of a very active campaign, which fell to his lot at the *Havannah*.

The situations in which Colonel Stuart was employed, during the operations of that Campaign, by Lord Albemarle, the Commander in Chief, sufficiently testify in what estimation he was held as an active and useful officer. The command of a detached corps was given to him during part of the campaign, in the course of which he acquired so much the confidence of the Commander in Chief, that he was the person chosen to command the *Assault* upon the MORO CASTLE; one of the most difficult, as well as most important, enterprises that had occurred in the course of that or any other campaign last war.

The failure of success in that attempt would, as I have heard from military men, have been as fatal to the objects of that expedition against the *Havannah*, as the success of it was productive of important consequences.

As I do not wish to attribute, even to a brother, any merits that are not well ascertained, I thought it proper to read over the account of the operations at the *Havannah*, published in the London Gazette Extraordinary of the 30th of September 1762, which is now lying before me; and in which are found some particulars, which, in your
 Lordship's

Lordship's estimation, will, I am persuaded, be thought highly creditable for Colonel Stuart's military conduct.

That Gazette contains the first accounts that were brought to this country of the important success of his Majesty's arms against the town of the *Havannah*, which, with all its dependencies, surrendered by capitulation on the 13th of August 1762. In the Letter from Lord Albemarle, upon that occasion, dated the 21st of August, reference is made to the *Chief Engineer's journal of the siege of the Moro Fort*, which journal is published in the Gazette Extraordinary; and in that journal, at the date of 22d July 1762, there is the following article:

" About four this morning there was a sally made by the enemy
 " from the town, which, by the information of prisoners, amounted to
 " 1500 men, divided into three different parties; one pushed up the
 " bank behind the Shepperd's battery; *they were stopped for near an*
 " *hour by the guard posted there, consisting only of about thirty men, com-*
 " *manded by Lieutenant-colonel Stuart of the 90th regiment*, until he was
 " joined by about one hundred sappers, and the third battalion of the
 " Royal Americans; the fire continued hot all that time, the enemy
 " were then driven down the bank with great slaughter; as many as
 " could, got into their boats, and many leapt into the water, where there
 " were 150 drowned."

The same Journal of the Chief Engineer gives an account of the *Affault* of the *Moro Castle*, on the 30th of July 1762, in these words:

" About two o'clock in the afternoon the mines were sprung; that
 " in the counterfarp had not a very considerable effect, but that in the
 " bastion, having thrown down a part of both faces, made a breach
 " which the General and Chief Engineer thought practicable; upon
 " which the troops, under orders for the assault, were ordered to mount,
 " and which they did with the greatest resolution, and forming very
 " expeditiously upon the top of the breach, soon drove the enemy from
 " every part of the ramparts. The Spaniards had about 130 men, with
 " several

“ several officers, killed. About 400 threw down their arms, and were
 “ made prisoners, the rest were either killed in boats, or drowned in
 “ attempting to escape to the Havannah. Our loss in this GLORIOUS
 “ AFFAIR amounted to two officers killed, and about thirty men killed
 “ and wounded.”

Another part of the same Gazette proves that Colonel Stuart was the person who led on the troops to the assault of the *Moro Fort*, and specifies the numbers he had under his command; the article is introduced in these words:

“ Return of the Numbers under Lieutenant-colonel Stuart,
 “ of the 90th Regiment, at the Assault of Fort Moro,
 “ July 30, 1762.”

Under this title in the Gazette, the number of officers and men, and the regiments to which they belonged, are mentioned; from whence it appears, that the total destined for the first assault were 281 rank and file, and to sustain them 150 rank and file, making in all 431, exclusive of officers and serjeants; besides 150 sappers, under the command of a captain, who were present at the assault.

In another part of the same Gazette there is a state of the garrison of *Fort Moro* when taken by storm, and the following return of the Spaniards, killed, wounded, drowned, or taken at the assault: Killed 130, wounded 37, prisoners 310, officers ditto 16, drowned or killed in their boats 213. Total 706.

From these particulars it appears, that this hazardous enterprise was accomplished even by a force inferior to the garrison which defended that Fort, remarkable for its strength and natural advantages, and which had the advantage also of being commanded by a very gallant officer, DON LOUIS DE VELASCO.

In addition to these proofs which have been stated of Colonel Stuart's behaviour last war, I shall only further beg leave to appeal to the testimonies given by the Generals under whom he had the honour to serve,

and to the recommendations they gave in his favour, which, I believe, will be found at the War-office.

However creditable for Colonel Stuart it may be, that the particulars of his behaviour last war should be made known, I never could have thought of entering into them, had not an appeal to his former conduct now become inevitable.

A recital of services uncalled for by any occasion, will always carry with it an appearance of presumption; but it will stand clear of every such imputation, when produced only as a necessary support against the weight of unjust prejudices, and for the redress of injuries which have been founded upon them.

When an officer in his Majesty's service meets with hardships, such as those Colonel Stuart has met with, and particularly when his course of preferment is withheld, and many younger officers put over him, suspicions may be entertained about the general character and former conduct of an officer thus excluded from promotion. Those who are acquainted only with what has *lately* happened to Colonel Stuart, must from thence be led to imagine, that his former conduct had been doubtful, or exceptionable; or, in the mildest construction, that no positive or singular merits had belonged to him; for merits of that description have usually, and not unreasonably, been deemed sufficient to protect a tried and approved character from hardships founded merely on the authority of reports, and especially reports concerning transactions in a distant part of the world.

One of the best refutations of any such unfavourable constructions must arise from an appeal to the whole tenour of Colonel Stuart's conduct while he had the honour to serve his Majesty.

Nor is this the only reason, my Lord, which induces me to wish that the whole of that former conduct may be brought into view;—I wish it likewise for this additional reason, that both his former situations
and

and his former services may now be contrasted with his present sufferings.

Colonel Stuart had attained the rank of Lieutenant-colonel before the campaigns either of the *Havannah* or of *Martinico*; and now, at the distance of more than eighteen years from the day on which he had the good fortune to lead to victory the troops which so gallantly stormed the *Moro Castle* at the *Havannah*, he finds himself in possession of no higher rank in his Majesty's service than that which he enjoyed at that moment. This, of itself, would only prove, that he had not been remarkably fortunate. But the regard due to truth in a relation of facts, obliges me to add, what must appear incredible to those who were witnesses of his behaviour last war,—instead of promotion, he finds himself mortified and degraded in the service, where the only distinction he has obtained, is that of being the marked and single exception from the benefit of a promotion allotted to all officers of a certain standing, and where, by that means, more than ninety Lieutenant-colonels, who were formerly under him, have now acquired rank over him, and to his prejudice.

It would be difficult, I believe, for any person, even the most conversant in the history of military men, to discover many instances of such a complication of mortifying disappointments and hardships, as those which Colonel Stuart has, in the course of these last four years, experienced, both in his Majesty's service, and in that of the East India Company. They are such as would have been more than sufficient to atone for real offences, even of considerable magnitude; but they have been inflicted upon him without any trial, and without proof of his having been guilty of any intentional offence: for if he has been guilty of any offence, the utmost extent of it can only amount to this, that, in point of judgment, or in point of law, he was mistaken in imagining that the Majority of Council, even though his superior

Officer, the *Commander in Chief*, was one of that number, had a right to require from him obedience.

The extent of his sufferings has likewise been greatly increased, by the length of time during which he has been continued in an almost unsupportable state of anxiety and suspense. Obligated to attend to the discussions and determinations of his fate, agitated alternately in England and in India, and, as if it were in mockery of his misfortunes, the mandates from the India-house, under the authority of which his conduct was to be decided upon, and his future situation regulated, have been repeatedly referred backwards and forwards from *London* to *Madras*, and from *Madras* to *London*, without producing any other effect than that of mortifying the person whose prospects in life were thus obstructed, and his reputation sported with.

The result now is, that after consuming some of the most valuable years of his life in this unavailing and humiliating state of suspense, he now finds himself just as far advanced in his progress towards the redress of his injuries, as he was some years ago, when the first instructions respecting him were sent to India.

But if these things have happened to a person who, instead of being guilty of offences against either the State or the East India Company, has been intitled to merit and applause from both, I may surely in that event presume, that his case and his misfortunes must be deeply affecting to your Lordship, and to every person possessed of the same sentiments of humanity and justice.

That this description applies precisely to Colonel Stuart's case, I may now be allowed to assume as a fact, established as it is by the unquestionable proofs that have been given of his exertions, and his positive merits both in the service of the Crown and of the East India Company; and yet the singular consequences are, that he now finds himself placed in such an unfortunate situation in both services, that it is not possible for him to act for the public utility, or for his own personal credit, either in the one or the other—a situation surely the most

most mortifying to an Officer of character and experience, who ardently loves his profession, and who has shewn, by the whole tenor of his conduct, that he wishes for nothing so much as opportunities to distinguish himself in it.

Of all the misfortunes Colonel Stuart has met with during the course of these four last tedious years, none has affected him more deeply than the event of the year 1777, when he was passed over in the promotion in his Majesty's service.

The news of this event affected him the more, as there was impressed upon his mind a complete confidence, that whatever hardships he might meet with from other quarters, during the dominion of prejudice or of faction, excited by the Indian civil commotions, yet he might rest secure against the possibility of *any* hardships being inflicted upon him in his Majesty's service, where he flattered himself that his character and conduct were well known; and it appears from the whole course of his correspondence, that he relied on this protection from that quarter, and looked forwards to his situation and prospects in his Majesty's service, as affording to him the honourable opportunities of distinguishing himself in the immediate service of his King and country, in case, by any perverse events, he should happen to meet with an unjust return for his efforts and exertions in that of the East India Company.

From the state of Colonel Stuart's mind, thus laid open to your Lordship, it will not appear extraordinary, that the first accounts of what had happened to him in the line of his profession in his Majesty's service should have affected him very strongly. I am in doubt whether I should venture to state it precisely in the words of his Letter to me on that subject, but knowing that your Lordship's candour will make allowances for the strong feelings of an Officer who thought himself injured and treated with indignity, and who at the same time that he

was struggling with bad health, was stunned by an unexpected blow from a quarter where he had confidently assured himself of favour and protection, I shall take the liberty of communicating to your Lordship the impression which these first accounts made upon my Brother, precisely in the words of his Letter, which is at your Lordship's command whenever you are pleased to call for it.

The first part of his Letter contains bitter complaints against the Governor and Council at Madras, for having refused to him the trial by a Court-Martial. The Letter then proceeds in these words:

" This delay, or rather refusal of justice, of itself might, I say, have
 " otherwise sunk my spirits entirely; but when your Letters by the Eagle
 " Packet, with the news of that most dreadful stroke at the War-office,
 " found me in my most private retreat, struggling to recover my health
 " and strength (by advice of physicians at a neighbouring place on the
 " coast here), I say to you, these Letters dropped from my hands, and
 " I lost my senses for some minutes. I think it fortunate that I was al-
 " most alone; because, upon my recovering, I formed the resolution
 " to check even my most natural feelings, and to look only for resources
 " in myself, now that I seem to be abandoned by all the world."

These were his feelings upon the reception of the first accounts of what had happened to him in his Majesty's service; and, from his correspondence since that time, it has continued to be the grievance and the misfortune which dwells most upon his mind because the most contrary to every expectation which he had considered himself intitled to entertain.

Though he is known to possess more than ordinary strength of mind, yet the long and severe hardships he has had to encounter, during a state of bad health in that climate, and various contentions he has unavoidably been engaged in, joined to the late cruel disappointment in the last refusal of a trial by a Court-Martial; all these things united have now had the effect of sensibly affecting his health and spirits, and have urged me to present with great earnestness, though
 with

with great deference, this address to your Lordship on the subject of his rank; because if a promotion of General Officers were to take place, in which Colonel Stuart's name, in the rank he expects, should happen to be again omitted, I am certain, that such an event, if he should survive it, would infallibly destroy his happiness; and, from what I know of his dispositions and turn of mind, highly susceptible on every point of military honour and distinction, there is much reason to apprehend, that the severity of such a repeated disappointment, liable as it would be to many constructions to his prejudice, might, in the present impaired state of his health, be attended with the most fatal consequences.

I am persuaded, my Lord, that the case of a deserving Officer, suffering unmerited injuries, will sufficiently engage your Lordship's attention, without offering, in addition to the preceding state of facts, any arguments to enforce them; and I represent the state of my Brother's military hardships with more satisfaction to your Lordship, than to those to whom I have hitherto been under the necessity of addressing them; because, though the Gentlemen in the Direction of the East India Company's affairs are in their situations highly respectable, it is not to be supposed that they can, like your Lordship, conceive and enter into the feelings of an Officer,—his professional pride (which your Lordship would wish rather to cultivate than discourage), and all the nice sensibilities of military honour.

These, I know, will have their full weight with your Lordship; and, therefore, it is sufficient for me merely to have related the facts and circumstances which attend my Brother's interesting situation.

But as the number of those facts, and the extent of the subject, have unavoidably increased the size of this address much beyond the bounds within which I proposed and wished to have confined it, and as the connection of the several parts with the main object of it may by that

means have been rendered less evident, I shall beg leave to resume, in a few words, the propositions I have maintained, and the proofs I have offered in support of them.

FIRST, I have endeavoured to shew, that Colonel Stuart was clearly entitled to expect the benefit of that promotion in his Majesty's service in 1777, which was allotted to officers of his standing in the army; and that no reports concerning his conduct in a distant country, and in another service, ought to have deprived him, even for a moment, of that promotion which he had earned by many years of faithful and useful service, while he had the honour to serve his Majesty.

MY SECOND PROPOSITION was, that, supposing the measure of withholding Colonel Stuart's rank to have been RIGHT in the year 1777, yet the continuance of the hardship thereby inflicted would now be WRONG; because the ground on which the measure was at first taken, is, in its circumstances, *essentially*, and in its reason, *totally*, changed.

In proof of the assertion contained in this Second Proposition, I have found it necessary to compare minutely the circumstances which attended Colonel Stuart's situation in the year 1777, with those which now exist; from whence the conclusion follows, that, in the most material respects, that situation is totally changed.

I.

BECAUSE the reports which had, in the year 1777, been circulated in this country, concerning the disturbances at Madras; the alarms about the safety of the Settlement; the assertions about Colonel Stuart's past, and the predictions about his future, behaviour in that Settlement, under the influence of all of which united, his exclusion from the benefit of the promotion 1777 had taken place, have not only been unconfirmed, but, by the event, have been totally and entirely disproved.

II. BECAUSE

II.

BECAUSE the *supposition* that Colonel Stuart would not only *certainly*, but *speedily*, be tried by a Court-Martial in India (the only other ground upon which his regular promotion could have been with-held from him in his Majesty's service), has, after repeated assurances to the contrary, and after several years anxious expectation, been found to be a *supposition* totally erroneous.

Under this head I have also proved, by incontestible evidence, that Colonel Stuart, both in the years 1778 and 1780, while the granting or refusing the Court-Martial was in agitation at Madras, had used every possible effort not only to obtain that trial as a favour, but had even strongly insisted upon it as his right. I have stated at the same time the reasons or pretences made use of by the Governor and Council at Madras for refusing that trial, and have shewn, in considering these reasons and pretences, that several material facts have been cleared up, and several weighty opinions given, which, in a case so peculiarly circumstanced as Colonel Stuart's, ought to be considered as *equivalent to the sentence of a Court-Martial*, the forms of which only have been wanting.

III.

BECAUSE in the years 1779 and 1780, there was a solemn trial in Westminster Hall, of the persons principally concerned in the transactions of the year 1776, at Madras, who issued the orders which Colonel Stuart obeyed; and the obvious inferences from what passed on that trial, and from the sentence itself, must, in the circumstances of Colonel Stuart's case, necessarily tend to his exculpation or acquittal.

IV.

BECAUSE Colonel Stuart's general conduct in India had, in the course of the year 1779, been the subject of an accurate scrutiny at the India

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House ; where the Directors, after examining the records of the Madras Presidency in their possession, have, by their letter of the 14th of April 1779, given the most honourable testimony with regard to his general conduct in military and civil matters since the time that he entered into their service.

After having established in this manner the propositions above mentioned, I took occasion to bring under your Lordship's view some particulars of Colonel Stuart's MILITARY MERITS since the time he went to India, and likewise while he had the honour to serve his Majesty last war ; which naturally led me to contrast his late and present sufferings with his former situations, and his former services.

Upon the whole I have thought myself authorized to maintain, that Colonel Stuart, without any trial, has suffered more than there could possibly be any reason to apprehend, would have been inflicted upon him, if he had been tried, convicted, and even punished, by any court of judicature ; and certainly much more than could ever have been inflicted upon him by that Court-Martial which he has been so often promised, and so unaccountably refused, and which he so long, so earnestly, and so ineffectually solicited.

At the same time I have appealed to the authority of such well-established facts, as justify Colonel Stuart's friends in maintaining, that instead of deserving to be treated or considered as an offender, his conduct, both in the service of the Crown, and in that of the East India Company, has been such as actually intitles him to merit ;—in as far as merit can be ascribed to a faithful discharge of his duty, and to useful services rendered upon important occasions.

If in the preceding enquiry and discussions I have been fortunate enough to afford satisfaction to your Lordship, I must be permitted to think, that the time is now arrived for realizing the assurances given in

Lord Barrington's letter; concerning the *full and perfect justice* that was to be done to Colonel Stuart; which, in so far as it relates to his rank in his Majesty's service, can only be accomplished by placing him in that situation of the promotion of the year 1777, which from his standing in the army he was then intitled to have expected.

I must once more make an apology to your Lordship for the length of this address, which, though it may be tedious, I am willing to think is unavoidably so; and I shall add nothing further to detain your Lordship, but one single short observation.

Before Colonel Stuart could accept the offers, and enter into the service of the East India Company, it was incumbent upon him to obtain his Majesty's permission, which he, unfortunately for himself, as it has proved, solicited, and his Majesty graciously condescended to grant. If this step had not been necessary to Colonel Stuart, it would yet have been highly eligible to him, as it intitled him to consider himself, while he paid a local obedience to the East India Company, as still within his Majesty's protection. What he always looked up to as his best support, is now, by the course of events, become his most effectual consolation; and in whatever manner his Majesty, in his wisdom, shall think fit to decide on the misfortunes and injuries which have been suffered by Colonel Stuart, that decision will, both by him, and by those who are most affected with his misfortunes, and most anxious for his prosperity, be acquiesced in, as in duty it ought, with the utmost humility and submission.

That the whole of Colonel Stuart's case,—that the several particulars contained in this address, will undergo a thorough examination, is not to be doubted;—from your Lordship's love of justice, they will meet with a fair, and from your Lordship's partiality to men of service and of merit, I flatter myself you will think they are intitled to a favourable consideration.

In whatever other respects Colonel Stuart may justly deem his situation to be unfortunate, he feels the highest satisfaction in reflecting, amidst the calamities he has undergone, and all the disappointments and severities to which he has been exposed, that those accumulated evils will be truly represented by your Lordship; and that the final redress of them IS IN HIS MAJESTY.

I have the honour to be, with great truth,

Your Lordship's

BERKLEY-SQUARE,
January 3, 1781.

Most faithful and obedient humble servant,

AND^w. STUART.

(11)
E X T R A C T
O F
A LETTER from the Directors of the East India
Company, to the Governor and Council
at MADRAS,

As far as relates to Brigadier General STUART.

April 14, 1779-

Paragraph 12. **I**N our Letter of the 22d of December last, we replied to your advices relative to *Brigadier General Stuart*; and having given directions for his trial by a Court-Martial, and pointed out such Articles of War as appeared to us most proper on that occasion; we have nothing at present to add on that part of the subject.

13. But as the conduct of General Stuart, at your Settlement, exclusive of the part taken in the late unhappy revolution, has been active and conspicuous, we have been induced to take a particular view thereof, in order to communicate to you such remarks and instructions as may be necessary for your guidance, in case the General shall be acquitted by a Court-Martial.

14. The Memorial, Estimates, and Calculations of General (then Colonel) Stuart, of the 16th of December 1776, and 20th of January 1777, are convincing proofs of his possessing the most perfect knowledge of the Company's military affairs, and political interests on the coast of Coromandel, and of his attention to every thing necessary for the security of our possessions on that coast. The subject is comprehensive and important; and, in justice to General Stuart, we must

declare, that the perspicuity of his Statements, and his zeal for promoting the good of the Service, by the establishment of such excellent regulations as were recommended in his Memorial, are very deserving of our commendation.

15. The vigilance of General Stuart, when absent from the Presidency; his care to improve every opportunity of obtaining useful knowledge, and the communications made by him in consequence thereof, in pointing out what might have a tendency to promote the public safety, cannot fail to render that part of his conduct very acceptable to us.

16. We observe it was in consequence of General Stuart's Memorial, that application was made to the Nabob of the Carnatic to admit a garrison of the Company's troops into the important fort of Permacoil, in the neighbourhood of Pondicherry, which measure has our entire approbation.

17. The reasons stated by General Stuart, for declining to obtain the grain of Tanjore by compulsion or forcible interference, and against sending the Dobbeer to Madras without the Rajah's consent, were equally wise and humane. His deference for the Company's orders, and instructions relative to Tanjore, were such as became his station; and we are well pleased with his whole behaviour on those occasions.

18. The conduct of General Stuart relative to the repairing of the Annacutta, or Bank, which divides the river Cavery, was highly proper. We are very sorry to find, that a measure on which the cultivation and prosperity of Tanjore so entirely depend, and without which the Rajah's engagements could never have been fulfilled to the Nabob or the Company, should on any account be obstructed; and, we must own, it appears to us, that the country is in a very great degree, if not entirely, indebted to the laudable firmness and perseverance of General Stuart for the speedy accomplishment of this most useful business. The General entertained a just idea of the absolute necessity of prosecuting the work without delay; and he took care to urge it with so much warmth

warmth and propriety, as must have fixed a dangerous responsibility upon those who should persist in impeding it; and to this conduct we attribute the removal of these obstructions which seemed calculated to distress the country, and to disable the Rajah from complying with his stipulations.

19. The motion of General Stuart for placing a garrison of the Company's troops in the fort of Vizianagram, the capital of Sitteram Rauze's brother, was so perfectly consistent with the letter and spirit of the Court's orders, and must have appeared so conducive to the establishment of the Company's authority in the northern Circars, that we are surprised it could have met with opposition from any Member of Council at Fort St. George.

20. The facts stated are, That, in August 1777, the Rajah of Vizianagram, brother to Sitteram Rauze, with several thousands of his people, were actually in arms; that the said Rajah had been guilty of disrespect to your Government, by imprisoning one of your renters; and of contempt of the Company's authority, by refusing to set him at liberty upon the President's requisition. The cause of imprisonment of the renter is not the subject of our present inquiry or remarks.

21. In the Company's General Letter to Fort St. George of the 12th of April 1775, their views relative to the Rajahs and Zemindars of the northern Circars are stated in terms too plain to be mistaken. The substance is, that the said Zemindars should be secured in their property, without being under the necessity of keeping an armed force; and that the inhabitants of the country should be protected from oppression. The impropriety of suffering Rajahs or Zemindars to become formidable, was specially noticed; and it was suggested, that if Sitteram Rauze was already become so, the system must be corrected. It was also resolved, that every military man residing in the Circars should be absolutely under the Company's command, obliged to serve them

them whenever he might be wanted, and not left at liberty to take part with an enemy, in case troubles should arise in the country.

22. The Company's orders being thus explicit and peremptory, and General Stuart finding the conduct of Vizieramrauze inconsistent with those orders, he wisely judged that garrisoning the fort by the Company's troops would cure the subsisting evil, and ensure the future obedience of this refractory Rajah to the Company's regulations. We agree in opinion with the General, approve his attention to the Company's orders, and hope no change of government has operated to prevent the measure from being completely carried into execution.

23. It was very commendable in General Stuart, upon the first probability of hostilities, to offer to serve during the war, in any manner you might see proper for the public welfare : and although, from the nature of our orders respecting the General, you were not at liberty to accept his personal services, we are well pleased with the testimony given by you of his zeal for the public service on that occasion.

24. Having thus given you our sentiments on the conduct of General Stuart, independent of every consideration relative to the late troubles ; and confirmed as we are in our opinion of his great experience, and of his ability to render the most important service to the Company in the present conjuncture of public affairs, we think proper to acquaint you, that in case the event of General Stuart's trial by a Court-Martial shall be an honourable acquittal, we shall be well satisfied that he remain in India as Second in military command at Fort St. George, during the continuance of General Munro at that Settlement ; and that he succeed to the Chief Command of the troops on the coast, upon the first vacancy that shall happen in such command, after he shall have been so acquitted by a Court-Martial as aforesaid.

L E T T E R

TO THE HONOURABLE

The Directors of the East-India Company,

FROM

ANDREW STUART, Esq.

[March, 1781.]

GENTLEMEN,

WHILE there was any prospect of doing justice to Brigadier General Stuart by the means of a regular trial at Madras, I thought it suitable, on my part, to wait the event of the orders which had been sent to India for that purpose; and to abstain from any intermediate applications inconsistent with the plan of those orders.

But the repeated refusals which General Stuart has met with of that trial by a Court-Martial which he had so long solicited, and had so much reason to expect, have brought matters to such a crisis, that it is impossible for me to remain longer silent; and I am persuaded, when you have perused this Letter, that you will be of the same opinion.

To have shewn great anxiety, and to have exerted some degree of activity in behalf of a Brother at the beginning of his sufferings, and to relinquish all attention to him when those sufferings are not only increased, but in danger of being *perpetuated*, would be a conduct at once injurious to him, and disreputable to myself.

These are the apologies I have to offer for addressing you at present; and you may rest assured, Gentlemen, that the trouble I mean to give you will terminate with this Letter; and that it may be as little tedious as possible, I shall studiously avoid the repetition of any thing which has been already laid before you, either in my former Address in December 1778, or in the Letter which I had lately the honour to present to Lord Amherst, any further

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than may be necessary to connect together what has passed on that subject, and to place before you, in one view, the object of my former, and of my present, application.

For that purpose, I beg leave shortly to remind you, that in my former Letter, I took occasion to suggest two different methods of redress; to the one or the other of which, General Stuart and his friends were of opinion he was at that time entitled.

The first was, a trial by a Court-Martial on the spot where the transactions happened.—The second was, that you, Gentlemen, should enter into the examination of his case, and decide upon it yourselves, from the ample materials then in your possession, without the intervention of any other Court.

Of these two methods of redress, General Stuart himself strongly and uniformly preferred the trial by a Court-Martial, as a Judicature the best calculated to decide upon every military offence, and to clear up the conduct of a military man.

The second was the mode which I pressed the most, for reasons explained at large in my Letter of 1778, and because I foresaw, from the nature of the objections which had been made by the Governor and Council at Madras, to granting the trial in March 1778, that those objections would most probably be again insisted upon; and that the only consequences of a new order for a trial, would be a new refusal on the part of your Servants at Madras, and a new disappointment to General Stuart.

It was your pleasure, not to comply with my request, of taking upon yourselves the examination of his case, but you preferred a renewal of the orders for a trial at Madras; and those orders were made peremptory and absolute. Your General Letter in December 1778, contained positive orders to the Governor and Council at Madras, *forthwith* to make the necessary *requisition* to the Commander

mander in Chief of the King's troops there, for assembling a Court-Martial on General Stuart's case.

But the same Letter contained also a paragraph, directing the *stoppage of his Pay*; to which I beg leave to call your particular attention, as that circumstance will appear in the sequel to have increased all the former difficulties on the subject of the proposed trial.

The paragraph relating to the stoppage of his Pay is in these words:

“ As we must now take for granted, that a Court-Martial will be
 “ assembled, without delay, to try Brigadier General Stuart, and that he
 “ will be legally acquitted or condemned by the most proper tribunal;
 “ we shall only add by this opportunity, that whatever may be the
 “ sentence of the Court-Martial to be held on Brigadier General Stuart,
 “ or on any other military officer, in consequence of the late troubles,
 “ you are to observe, that the *pay and emoluments* of every such
 “ officer ceased immediately on his suspension from the service; and
 “ that, even if sentence of acquittal shall be passed by the Court-Martial,
 “ no suspended officer shall receive any allowance on the Company's
 “ account, for any part of the time which he has remained, or shall
 “ remain, under suspension, except by the express orders of the Court
 “ of Directors, to be first signified to you for that purpose.”

The paragraph containing these directions about the stoppage of Pay was strongly objected to by me, from the moment I received intimation of it, because it seemed to be formed upon an unusual and unjustifiable plan of severity. The complaints I made on this subject to the Chairman of the East India Company at that time, received for answer, that this was a mere temporary inconvenience, that the circumstances of the case required it; but that it would be remedied at a future period, and with a retrospect.

I should certainly have objected to that measure much more strongly, if I had foreseen, what I confess I did not foresee, the additional reason or pretence which it was likely to afford to the Governor

and Council of Madras, for refusing to General Stuart the wished-for trial by a Court-Martial.

I shall now bring under your view, as concisely as possible, what passed at Madras in consequence of these renewed orders for the trial, accompanied with the directions for the stoppage of pay.

General Stuart, as soon as he received notice of the arrival of these orders at Madras, prepared immediately for his defence, and used every effort to forward your intentions respecting the trial you had ordered, and which he so ardently wished for.

January 13,
1780.

With a view of expediting the matter, he signed and delivered to the Governor and Council, on the 13th of January 1780, a paper, containing a state of facts admitted by him, in order that these admitted facts might assist the Governor and Council in forming the Charges against him, and afford a ground for his being brought to a Court-Martial.

February 8.

During a considerable time he flattered himself, that the Court-Martial would be granted, and that nothing could possibly prevent its taking place. But on the 8th of February 1780, he received a letter, signed by the Governor *Sir Thomas Rumbold*, the Commander in Chief *Sir Hector Munro*, and by *Mr. Whitbill* and *Mr. Smith*, Members of the Select Committee, acquainting him, "That they had met several days on the subject of the Company's orders of the 22d of December, 1778, relative to his trial by a Court-Martial, and had taken up the whole matter with the view of executing these orders to the utmost of their abilities; but that they were sorry to say, that such difficulties had occurred to them as appeared insurmountable," &c.

They then proceed to state these difficulties.—In the first place, they mention the imperfections, which, as they conceived, still existed in the Company's general instructions for a trial; and then they take

notice

notice more particularly of two additional difficulties, arising from the predicament in which he then stood in consequence of the Company's orders. These were his *suspension* from the service, and the *stoppage of his pay*; upon which subject there is the following paragraph in their Letter to General Stuart:

" Being under *suspension* from the service by the express authority of the Company, and your *Pay* and *Allowances* having been likewise stopped by the same authority, we do not conceive you to be, in any respect, within the cognizance of martial law."

Upon the 9th of February, General Stuart wrote a full answer to the letter he had thus received the preceding evening, and in that answer expressed his astonishment and mortification on perceiving their intention of refusing the Court-Martial which he had so long and so earnestly solicited.—He maintained, " That it was contrary to military practice, and military justice, and to the general principles of equity, to delay, or in effect to deny him, a fair hearing and trial before a Court-Martial." He then applied himself particularly to answer the difficulties that had been supposed to exist from the circumstances of his *suspension*, and of the *stoppage of his pay*.—In short, after particularly combating every objection, he concludes with these words:—" I desire and insist on my trial taking place, as an act of justice, which the Court of Directors have expressly ordered to take place. The materials for the charge are in your possession, and on record; or they may be taken from the paper inclosed in my Letter, dated the 13th of January last."

On the 11th of February General Stuart received a second Letter from the Governor and Council in these words:

" SIR,

" We have received your letter of the 9th instant, and have taken the same into our serious consideration.—We are of opinion, that the reasoning contained in that Letter has not removed the difficulties

February 9,
1780.

February 11,
1780.

" difficulties we stated in ours of the 8th instant; and as these and other
 " embarrassments arising from the nature of the Company's orders, and
 " from the opinions given by the Counsel in England upon the questions
 " stated to them, have absolutely determined us to refer the matter back
 " again to the Court of Directors;—we shall write to them on the
 " subject by the vessel now going to Suez, which will be dispatched
 " to-morrow evening at farthest," &c.

February 12,
 1780.

Upon the 12th of February, he addressed another Letter to the Governor and Council, wherein he complains severely of " the very
 " great injury done him by their refusing to carry the orders of the
 " Directors concerning his trial into immediate execution."

Upon the same date, the Governor and Council, at least that part of the Council which forms the Select Committee at Madras, wrote a very long Letter to the Court of Directors, stating their reasons for the refusal of the Court-Martial, and justifying their conduct in that respect.

From that Letter, and from the whole of the proceedings, it appears, that their refusal, in the year 1780, of the Court-Martial, was founded on the same reasons which had induced them to refuse it in the year 1778; with this difference only, that they availed themselves of an additional reason or pretence, from the circumstance of the Directors of the East India Company not having taken off General Stuart's *suspension* before they required his trial, and from the further circumstance of their orders for his trial having been accompanied with an order for the *stoppage of his Pay*.

I have thus related, as briefly as possible, my solicitations to the East India Company, the orders which they sent to Madras, and the proceedings there in consequence of those orders; you will now, therefore, permit me, Gentlemen, to make a few short reflections:

on the means by which General Stuart has thus been brought into a very singular and mortifying situation.

Having exerted every nerve to obtain a trial by a Court-Martial; and having sustained much prejudice from the refusal of it; it must be allowed that he has reason to complain of one of these two things, either of the nature of the orders sent to India, or of the disobedience of those orders on the part of the Company's Servants.

If your orders respecting his trial were either in themselves imperfect, as your Servants assert, or were accompanied with such directions concerning his *suspension*, and the *stoppage of his Pay*, as justified them in thinking that the trial by a Court-Martial was rendered impracticable; in such a case, General Stuart has certainly the strongest reason to complain, that, by the insufficiency of the orders, or by the addition of directions which defeated the expressed intentions of those orders, he has been engaged in fruitless contests, and suffered further delays.

If, on the other hand, there was not any thing either in the orders themselves, or in the directions which accompanied them, that ought to have prevented the Governor and Council at Madras from promoting the trial; in that case, General Stuart has the strongest ground of complaint against those who have disobeyed your positive orders respecting the trial by a Court-Martial.

His friends, therefore, apprehend, that the East India Company are, in justice, called upon to redress, in such manner as they are able, the injuries which they have been the occasion of, either immediately, and in the first instance, from the imperfection of their orders; or remotely, by the error and disobedience of their Servants: for, in either case, it cannot be pretended, that a particle of blame can be imputed to General Stuart; and yet he is, in every respect, the real sufferer.

The consequences of these errors, either of the Directors of the East India Company, or their Servants, have been of essential prejudice to

him, because otherwise he must, long before this time, have either obtained his *acquittal*, and all the benefits annexed to it; or must have received such a determination upon his case, as would have enabled him to take a decided part as to his remaining in India, or returning to Great Britain; and whether it was eligible for him to continue any longer in the service of the East India Company.

But while there was a disposition on your part to give the orders for the trial at Madras, and while there was a declaration also on the part of your Servants there, that they were willing to promote that trial, General Stuart could not abandon his station in India, without laying himself open to many suspicions; and particularly to the disgraceful suspicion of meaning to evade the proper trial by a Court-Martial upon the spot where the transactions had happened.

In these sentiments he was the more confirmed, from the terms of your letter of the 14th of April 1779, to the Governor and Council of Madras; for, in that letter, you were pleased to express the most honourable approbation of his conduct upon various important occasions; and upon the supposition of his being tried and acquitted, you gave, for the first time, positive orders that he should be Second in Command during the continuance of General Munro (who had given notice of his intentions of speedily returning to England); and that upon his leaving the Settlement, General Stuart should be restored to the Command in Chief of the army, in case he had before that time obtained his sentence of acquittal from the Court-Martial.

But your Letter went further:—It clearly indicated a wish, that he should remain in India in *expectation of these events*. This appears particularly from that part of it where you were pleased to express yourselves in the following terms: “Confirmed, as we are, “in our opinion of his (General Stuart’s) great experience, and “of his ability to render the most important services to the Company in “the present conjuncture of public affairs, we think proper to acquaint “you,”

"you," &c.—Independent of all other motives, this change of conduct on your part, and these declarations so flattering to General Stuart, were strong ties upon any officer of just and honourable principles, not to leave India, while there was any prospect of his rendering to the Company those important services, which your Letter distinctly marked out, were, in the present conjuncture of public affairs, expected from him.

Without pretending to unfold the motives, or to ascertain the causes, which have produced the refusal of a trial, and a long series of misfortunes, to General Stuart, I must be allowed to observe in general, that this method of proceeding, by keeping every thing *in suspense*, is the most cruel, and, if it had been designed, would be the most ungenerous, and at the same time the best calculated to asperse, and bring into disrepute, the characters of men who are perfectly innocent, or even highly meritorious.

When imputations of any sort are brought to distinct points, and reduced to a precise charge, the evidence and arguments offered in their support may, by stronger evidence and better arguments, be refuted, and the innocence of the party accused be clearly vindicated and established.

But while no measure is adopted, that, from the nature of it, must be *final*; while no *trial* is held, because by that means there can be no *acquittal*, every thing is necessarily left open to mistake and to misrepresentation; and permit me, Gentlemen, to observe, that the extraordinary conduct, and the very unusual proceedings, by which General Stuart has been made to suffer the consequences of crimes without the guilt of them, and without the possibility of proving his innocence, cannot but be felt both by himself, and by those who interest themselves in his prosperity, as a very high aggravation of his misfortunes, as

giving a keener edge to every injury, and embittering it by a severity which is scarce supportable.

It is not from a disposition to arraign the conduct of individuals, or any description of men, that I have endeavoured to excite your attention to the hardships sustained by General Stuart, from the cruel and unexampled state of suspense in which he has been held for many years.—Complaints of what is past, and cannot be recalled, would be useless and invidious, unless they had in view the regulation of some *future proceedings*.—It is for that purpose only, that I have solicited your attention to the consequences of your former orders; and my object in mentioning what he has already suffered, is merely that you may be induced, upon just grounds, to put a period to those sufferings, by taking upon yourselves the examination of his case, and by granting such redress as shall appear to you the most suitable for him, and at the same time the best calculated for the interests of the East India Company.

The objects of your deliberation are reduced, at present, within much narrower limits than they were in December 1778; there is now no *option* left, and you must take upon yourselves the decision of this matter: for all hopes of a trial upon this case, by a Court-Martial in India, are now at an end.

The proofs which I shall beg leave to submit to your consideration, in support of this assertion, take their rise partly from the nature of the objections which have been already made by your Servants in India, and partly from some additional and very strong objections, which, if the matter was to be again sent to India, would infallibly be made in bar of any military trial in this case, on account of the *distance of time* since the date of the supposed offence.

When your Servants at Madras refused the Court of Inquiry, and the Court-Martial, in the year 1778, it was not a hasty decision, which further reflection might probably over-rule, but the result of frequent meetings, and of much deliberation on the subject; and the principal reasons given by the Governor and Council, for that refusal, were founded on a positive opinion, that General Stuart had not been guilty of any *military offence*, or of any *transgression against the Articles of War*.

In proof of this, you will permit me to appeal to the opinion given upon that occasion by the Commander in Chief, General Munro, who, on account of his knowledge in military matters, had been requested, by the Members of the Council, to take into his consideration the Company's orders respecting General Stuart. In consequence of this request, he first delivered in to the Board his opinion in writing, in relation to the nature of *Courts of Inquiry*; and afterwards he gave in an additional paper, containing his answers to the questions which had been put to him by the President, Mr. Rumbold.

1778.
Feb. 23d.

Feb. 24th.

These questions and answers were as follows:

Query 1st. "Whether or no such an *Inquiry*, as directed by
" the Company, can; from the nature and tendency of
" a *Court of Inquiry*, be ordered upon Brigadier General
" Stuart?"

Answer. "It is my opinion, that *no such Inquiry*, as directed
" by the Company, can be ordered upon Brigadier General
" Stuart, as will more fully appear from the opinion I have
" already given relative to the intention of ordering *Courts*
" of *Inquiry*."

2dly. "Whether or no a charge against a military officer
" must not be grounded on the infringement of military
" law?"

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Answer.

Answer. " It is my opinion, that any charge against a military officer, must be grounded upon the infringement, or supposed infringement, of some article of war, if to be tried by military law."

3dly. " Whether or no Brigadier General Stuart, arresting the person of George Lord Pigot, then President and Governor of Fort St. George, by a special licence from *George Stratton, Esq; Sir Robert Fletcher, Henry Brooke, Charles Floyer, Archdale Palmer, Francis Jourdain, and George Mackie, Esqrs;* then part of the Council of Fort St. George, is an offence that comes under any one of the articles in the Articles of War, intituled, " Rules and Articles for the better Government of the Officers and Soldiers in the Service of the United Company of Merchants of England trading to the East Indies ?"

Answer. " It is my opinion, that Brigadier General Stuart having arrested the person of George Lord Pigot, out of the garrison of Fort St. George, is *not an offence that comes under any one article in the Articles of War*, intituled, " Rules and Articles for the better Government," &c. as above.

(Signed) HECTOR MUNRO.

In this opinion delivered by General Munro all the Members of the Board concurred, and the matter was referred back to the Court of Directors in March 1778.

When the renewed orders, for the trial, were under consideration at Madras in the year 1780, General Munro and the other Members of the Council continued in the sentiments they had formerly declared; and they were furnished with an additional reason for not promoting the trial, from the circumstance of General Stuart's *suspension* being continued, and of his *pay being stoppt*.

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If the matter were to be sent back to Madras a third time, what possible reason can there be to expect a change of sentiments amongst your Servants there? and particularly, what reason can there be to suppose that General Munro, who is a Member of the Council, would not continue of the same opinion with that which he had formerly declared? for I have no doubt that it was his *real opinion*; neither have I any occasion, in order to maintain what I contend for, to contravert the facts or the principles on which that *opinion* was founded.

I must now beg leave to direct your attention to an *additional objection*, to which I have already alluded, and which, if the case were to be sent again to India for trial, would infallibly occur to your servants there as a bar to any military trial; and the objection is this:—That the *period* within which military men are liable to be tried by military law, is actually *expired*.

In the *Mutiny Act* passed annually in England for regulating the army, and which is declared to extend to all officers and soldiers in his Majesty's service, within Great Britain, or *in any of his Majesty's dominions beyond the seas*, the limitation of the time for trying military offences is expressed in the 76th clause in these words:

“ Provided always, That no person shall be liable to be tried and
 “ punished for any offence against any of the said Acts, which shall
 “ appear to have been committed more than *three years before the*
 “ *issuing the commission or warrant for such trial*, except only for the
 “ offence of desertion.”

From the above clause it is perfectly clear, that no officer in *his Majesty's service*, either in Great Britain, *in India*, or in the most distant parts of his Majesty's dominions, can be tried by a Court-Martial for any offence committed *three years* before the *date of the warrant* for such trial.

In

In the year 1754, an Act passed in the British Parliament, for the punishing mutiny and desertion *in the service of the East India Company*.—The clauses of that Mutiny Act are in general formed precisely upon the plan of the clauses in the British Mutiny Law; but the British Mutiny Act, which consists of eighty-three different clauses, specifies a much greater variety of cases than the Mutiny Law respecting the East India Company's forces, which consists only of thirteen clauses.

When, therefore, any military offences are committed in India, which have not been particularly specified and provided for by their military law, but which are specified and provided for in the British Mutiny Law; in such cases, Courts-Martial in India have thought themselves bound by, and have adopted the directions and provisos of the British Mutiny Law, so as to make the condition of an officer and a soldier in India as similar as possible to the condition of officers and soldiers in Great Britain, or in other parts of the British dominions.

The Members upon a Court-Martial in India, hold themselves the more bound to observe this rule, on account of the terms of the oath taken by them upon the trial; in which oath, after mentioning the Articles of War and the Mutiny Law, relating to the troops of the East India Company, there is this clause: "And if any doubt shall arise which is not explained by the said Articles, or Act of Parliament [I will duly administer justice] *according to my conscience, the best of my understanding, and the custom of war in the like cases.*"

One of the articles, not specially provided for in the short Mutiny Law for the East India Company's troops, is that which relates to the *limitation of time*, after which officers and soldiers are not liable to be tried for military offences; but according to the best information that I have been able to collect on this subject, it has been understood in India, that in a case of this nature, it was the duty of the Members of a Court-Martial to observe the same rule that is laid down by the 76th clause above recited of the
British

British Mutiny Act, which declared that no officer or soldier is liable to be tried and punished for offences committed more than *three years* before the issuing the *commission* or *warrant* for such trial, except only for the offence of desertion.

The application of this to General Stuart's case is obvious.—There has never to this moment been any *commission* or *warrant* issued for his trial by a Court-Martial; for the Governor and Council at Madras, who in the year 1778 had the power of issuing that warrant, refused it; and, in the year 1780, they refused to make the *requisition* to the officer who at that time had the power of granting the *warrant* for the Court-Martial.—More than four years are already elapsed since the date of the offence imputed to General Stuart; consequently, if any application were now to be made in India for a Court-Martial on his case, this circumstance of the *distance of time*, since the date of the supposed offence, would of itself prevent the trial.

Even if there were doubts both as to the point of law, and as to the practice in India in such cases, there can be no doubt, after what has happened, that this obvious objection to granting a trial would be laid hold of in India; and it would be founded on much better grounds than most of the reasons which have hitherto been given for that refusal.

It is a difficulty which would most probably obstruct this business in all the various stages of it, even supposing that your orders for holding a Court-Martial were renewed (though I may be permitted to doubt, whether you yourselves, Gentlemen, would think it adviseable to renew such orders, under the weight of this objection); for, in the first place, it is most probable that the Select Committee of the Council at Madras would again refuse to make the *requisition* to the Commander of the King's troops for *issuing the warrant*.

2dly, Supposing them to make that requisition, it is most probable that the Commander of the king's troops would refuse such *warrant*,
because

because he would at first sight perceive that the offence imputed to General Stuart had happened more than *three years before the date of the warrant*; in the present case, five years at least would be elapsed before the date of any warrant that could now be issued for assembling a Court-Martial.

And lastly, Supposing the requisition made, and complied with, there is the greatest reason to be persuaded that the whole, or the major part, of the Members on that Court-Martial would refuse to try the case, because, from the express terms of the British Mutiny Law, and from the practice in India, the time limited for the trial of military offences had expired.

In every military service some period ought to be limited, after which an officer shall be no longer subject to a trial by any other laws, than the *general laws of his country*. It may be necessary for the sake of discipline, that every officer and soldier should sacrifice for a *time*, and in *some respects*, his rights as a Citizen, and subject himself to Military Law. But it is not necessary that this time should be of long duration. On the contrary, the public interest seems strongly to require that it should be as short as possible; that the officer or soldier may be speedily punished, if he merits punishment, or the Public receive the benefit of his services, if he deserves to be employed.

Upon that principle, the Legislature in this country has limited to *three years*, the period within which an officer or a soldier may be tried for the offences created, and according to the modes prescribed, by *military law*.

The practice of observing in India the same rule which is observed in Great Britain, without any positive clause in the East India Mutiny Law for that purpose, has, undoubtedly, been founded upon the reason of the thing, upon principles of justice, and a conviction of its utility. If the limitation of the British Mutiny Act was not observed in India, the consequence must be, that there would be no limitation at all;
and

and an officer liable to be tried by military law *after 3 years*, would be equally exposed to that trial after 20, or after 40 years;—the injustice and absurdity of which, are too evident to require the aid of further argument on this point.

The result of all that has been said on this subject of the *limitation of time* (an objection perfectly new, which has never been touched upon in either of my former letters, and the importance of which has led me into more detail than I could have wished), is, that when this objection is added to all the other objections, which seem to have been studiously laid hold of by your Servants in India, for the purpose of refusing a Court-Martial, there cannot possibly remain a doubt in any man's mind, that there is not so much as a chance of General Stuart's hereafter obtaining a trial by a Court-Martial, or by a Court of Enquiry in India;—unless it can be supposed, that the objections of your Servants will diminish, as the reason for them increases; and that they will grant, under more and greater difficulties, the very thing they have repeatedly refused, under fewer and less.

I cannot therefore allow myself to suppose, that, when these things are duly weighed, it is possible that the most distant idea of sending this matter a third time back to India, should be seriously entertained in any quarter; especially when it is remembered, that in consequence of the two former references to that distant part of the world, about four years of General Stuart's life have been already consumed. The life of any man (and more particularly the most valuable period of the life of a military man) is much too short for the repetition of such cruel experiments.

In the preceding part of this letter, and still more particularly in the letter which I had the honour lately to address to Lord Amherst, it has been shewn, that your Servants in India have, from the beginning, been of opinion, that General Stuart had not been guilty of any offence that subjected him to be tried by martial law; and I have

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now shewn, that even if he had been guilty of any military offence, the time within which a Court-Martial could with justice, or would in fact, take cognizance of that offence, has been long *elapsed*.

If you are satisfied, that *either* of these propositions is well-founded, I must presume, that you will proceed immediately to the examination of General Stuart's case.

Upon this supposition, you will be pleased to permit me to make a few short observations respecting the very peculiar situation in which he now applies to you for redress.

When rumours have been circulated, or suspicions entertained, to the prejudice of an officer, on account of some part of his conduct which subjects him to be tried by military law; and when that trial has either been refused, or the time within which it ought to be granted, has, without any fault on his part, *elapsed*; the necessary and legal consequence is, that the officer so situated, must be considered, as if he had never been accused of any military offence; or as if he had been tried, and legally acquitted.

The justice on which this is founded, and the practice which is conformable to it, are so obvious, that they require no illustration;—if it were otherwise, what must be the condition of an officer?—It would be in the power of any man, by exciting rumours and suspicions to his prejudice, to blast his reputation, stop his preferment, and destroy his future prospects in his profession. While under all these oppressive circumstances, he would neither be able to prevent, nor remedy, the injuries he suffered.

This may be the case of every officer in your Service; unless the provision of the English Mutiny Bill, *respecting the limitation of time*, with the consequences attending it, is carried into practice in India.

If General Stuart had, in the King's Service, committed all, and much greater offences than have been imputed to him; and if he had taken no one step to promote, nor even shewn any disposition to obtain a military trial, the mere circumstance, of *no warrant* for a Court-Martial having been issued within the space of *three years*,
would

would of itself be decisive. He would be considered as if he had never been accused; or as if he had been tried, and legally acquitted; and an end would of course be put to his *suspension*, and to every other temporary hardship that had been inflicted upon him.

What hesitation therefore can be made, and upon what reason can such hesitation be founded, to prevent the same rule, under circumstances precisely similar, from taking place, with regard to General Stuart in your Service?

If then you are satisfied, in your own minds, of the impracticability of now obtaining, or even of the strong impropriety of again attempting any Military Trial in India, it necessarily follows, that General Stuart should no longer be kept in suspense; especially when there are such clear and unequivocal proofs (a circumstance on which I think myself well intitled to lay great stress), that he has uniformly made every possible effort to obtain a regular trial by a Court-Martial, which has been as constantly withheld from him.

But there is likewise an additional, and a very weighty reason, why no further delay can be necessary before you decide on General Stuart's case, which is this, That a court of very high authority in this country has lately decided upon, and made known, the nature, magnitude, and consequences of the offence which has been imputed to him.

In a prosecution carried on by his Majesty's Attorney General, by the orders of the House of Commons, against Mr. Stratton and others, the whole of the transactions at Madras in the year 1776, and especially what related to the seizure and confinement of Lord Pigot, underwent a strict and solemn scrutiny.

I shall avoid entering into the particulars, either of the trial or the judgment, any further than may be necessary to explain how strongly both the one and the other apply to the case of General Stuart, and shew the reasonableness of what I now solicit.

In that prosecution, the charge brought against the defendants consisted of the following particulars, and is in these words: " That unlawfully,

“ and seditiously, they formed themselves into a Council, and did confer the command of the army upon *James Stuart*; and did order him to put the fort and garrison under the command of them the defendants:—and if any resistance should be made to their orders, to *secure the person of Lord Pigot*; and that *they afterwards did actually arrest and imprison Lord Pigot, and with a military force continued him so imprisoned for the space of nine months*;—and during that time, unlawfully assumed to themselves the government of the army, and fort and garrison of Fort St. George, with its dependencies.”

The persons accused acknowledged the assumption of the government, and the issuing the orders in consequence of which Lord Pigot was seized and confined; but maintained that they had acted upon the necessity of the case, and upon motives of public utility; and in proof of that they asserted, that in fact, the peace and safety of the settlement had been preserved by what they had done.

The Judges of the King's Bench, after weighing the whole of the evidence for and against the persons accused, pronounced an unanimous judgment, by which the total extent of the punishment inflicted, was a fine of *one thousand pounds*, to be paid by each of the defendants; and the reasons on which that judgment was founded, were precisely specified in the opinion delivered by the court.

From that opinion, and from the smallness of the fine, when compared either with the magnitude of the offences charged, or with the situation and circumstances of the persons accused, it is perfectly evident, that the Judges were satisfied the defendants had not acted from criminal motives or intentions: it appeared to the court, that the measures taken by the defendants had been first produced by several arbitrary and illegal acts on the part of Lord Pigot, which were considered as a subverting of the constitution. These, and various other circumstances in mitigation of the offences charged, reduced the total extent of the punishment to a small fine. The sentence of the court may therefore be considered as something between a *condemnation* and an *acquittal*; it was a *condemnation* so far as it tended

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to shew that the acts of the Majority of Council were not *warrantable by law*, but it was an *acquittal* of every criminal motive or intention; to which however, the court, by the fine imposed, thought it proper to affix such a mark as might denote that their conduct had not been *strictly legal*.

The total extent of the offence imputed to General Stuart is, that he *obeyed the orders* which the Majority of the Council had issued to him, for putting the fort and garrison of Fort St. George under their command, and for securing the person of Lord Pigot. This obedience to their orders is the very essence of General Stuart's crime, and the source of his misfortunes.

But these acts of *arresting and imprisoning* Lord Pigot, and the *taking possession of the fort and garrison*, were, in the late prosecution, expressly charged upon the Members of the Majority of Council, as acts done by them. The very object of their trial was to ascertain the punishment due to those offences, and likewise to the further offence of having unlawfully *assumed the government*.—Thus not only the identical offence imputed to General Stuart, but more than that offence, has already been the *subject of a regular trial*, has been judged of and decided upon; and it is upon those offences, with all the circumstances of *aggravation or alleviation* attending them, that the judgment, which ascertains the extent of the fine or punishment, has been already pronounced.

But if General Stuart had been a defendant in that prosecution (which he might have been, as the charge against him was of a *civil* rather than a *military* nature), there could not have been the smallest hesitation in deciding, that his offence was very *inferior*, in point of magnitude, to that of the Members of the Majority of Council, who had *issued* those orders, and at the same time had *assumed the government*.

In another respect, his situation was very different from theirs, for his *Superior Officer*, the *Commander in Chief*, was one of the Members of the Majority, who signed and issued the *orders* to him, the second in command, requiring his obedience.

Besides these particulars, which materially discriminated General Stuart's case, I must beg leave to request your attention to some further essential circumstances.

When

When the Members of the Majority of Council separated themselves from Lord Pigot, formed a Council without him, and assumed the government, there was not, perhaps, at that time, such an *evident necessity* for that plan of conduct, as could completely *justify* it on the ground of *civil or state necessity*; but when those measures had been once taken, and when their orders to General Stuart had been actually issued, these things created a new and a very different situation, and afforded to General Stuart a *justification* for *obeying* those orders, which was not applicable to those who had *issued* them.—*He* was reduced to the *necessity* of taking a decided part at a very difficult crisis, and when there was little time for deliberation.

His decision at that moment was regulated not only by his opinion of what would be most likely to prevent disturbance in the settlement, but also by a sincere belief that the *legal government* was vested in the Majority of Council; an opinion almost universally entertained in the Madras settlement, and in which there has also been the concurrence of the Governor and Supreme Council of Bengal.

If in that opinion he was mistaken, still his conduct must be judged of by the motives which regulated it at that time; and if he erred in common with the greatest authorities in that part of the world, his offence must be ascribed to involuntary error of judgment upon a nice point of law, respecting the legal constitution of the Madras Presidency, which had never then been decided.

But supposing he had, even at that time, foreseen the judgment lately pronounced upon that point by the great law authorities in this country; even upon that supposition, his conduct, at that difficult crisis of your affairs, is at this day well qualified to stand the test of examination, and perhaps intitled to considerable merit with the East India Company.

After the rupture between Lord Pigot and the Majority of Council, there was *no legal government* subsisting in the settlement, according to the late decision in the King's Bench, where it has been discovered, that the *complete legal government* at Madras, was not vested either in the

Majority

Majority of Council without the President; or in the *President*, Lord Pigot, without the Majority. General Stuart, therefore, must run the risk of *legal blame*, if he obeyed *either* of the parties which laid claim to the powers of government; and yet his refusing to obey or support the *one* or the *other* of these parties, must have been productive of the greatest *political evil*.

In this situation, what part was it possible for him to act, so as to be free from all *subsequent blame*? Or, how could he discharge his duty more successfully to the public than he has actually done?

If he obeyed the orders of Lord Pigot and the Minority of the Council, his obedience to them would equally have exposed him to the blame that is now imputed to him—that of obeying *illegal orders*.

There was no safety for him then in obeying the orders, either of the one party or the other; and I shall suppose, that the safest part for *himself personally* upon that occasion was, to have refused obedience to *either party*, and to have been *totally inactive*; but was it the safest and best plan for the peace and quiet of the settlement, and for the prosperity of the Company's affairs?

The consequence of inactivity on his part; at that crisis, would have been the continuance and increase of all that confusion which had begun to distract the Settlement from the moment of the rupture between the constituent parts of the legal government of the country.

The obvious method of preventing those evils which threatened destruction to the settlement, was by checking them in their source; and this could only be done by a person situated as General Stuart was at that time; may it not then, with truth, be asserted, that it was more for the interest of the East India Company, and of the settlement in general, that he should give his decisive influence and support to *either of the parties*, so as to prevent the mischiefs of a *divided government*, than to refuse giving his support *either to the one or the other*, for his active exertions alone could ensure tranquillity to the settlement, until the pleasure of the East India Company was known?

From considerations of this nature, it would have been the duty of General Stuart, or at least it would have been meritorious in him, to have rejected the *cautious plan of inactivity*, even if he had foreseen, at that time, the decision of the King's Bench respecting the *legal government of Madras*.

There are occasions, when it becomes the duty of a good citizen, to run the risk of future objections to the *legality* of his conduct, for the sake of averting some imminent hazard to the community; and the most unfaithful servants to the Public, are those who, upon hazardous and critical emergencies, regulate their actions merely by the consideration of what is safest and best for themselves.

It is impossible for any man to assert, with any degree of probability, that the peace of the settlement could have been equally preserved without General Stuart's interfering in the manner he did: but it is beyond the reach of dispute, or of cavil, that *no greater or more complete degree of peace and security* could have been obtained, than that which attended the part taken by him at that difficult crisis; when a *dissolution of legal government*, and a *commencement of anarchy*, had already taken place.

These things were accomplished by one to whom no option was left, but a choice of *difficulties*; and whatever doubts may be entertained as to his having judged well for his own interests, it seems to admit of little doubt, that he judged and acted well for the interest of the East India Company.

The plain and obvious inference, therefore, which I draw from the circumstances in which he was placed, from his conduct in that situation, and from the consequences of it, is this :

That if General Stuart had been prosecuted in the Court of King's Bench (which I now most sincerely lament he was not), as his offence, if he was guilty of any, was less than that of the Majority of the Council, his punishment must have been less likewise, even though the Court had not taken into consideration the many circumstances of *justification*,
or

or at least of *alleviation*, which are peculiar to his case, and which undoubtedly would have had the greatest weight.

Having now laid before you all that General Stuart could *possibly* have suffered if he had been tried, let me request you would compare the utmost extent of that punishment with what he has *actually* suffered from not having been included in the *civil trial*, and from having been repeatedly, and for years, denied the *military one*.

Review, Gentlemen, the situation in which the consequences of your orders have so long placed him; consider his suspension, the stoppage of his pay, his superseffion, and by a younger officer, and all the mortifying circumstances which have unavoidably followed that superseffion.

A complete reparation for all he has suffered, must, I fear, be laid aside as impracticable; permit me, however, to suggest such method of redress as the circumstances of his case seem to admit and require; and which, I flatter myself, you will think it both reasonable for him to expect, and, in the present situation of your affairs in India, for the real interest of the Company to grant.

The measure which I beg leave to propose, is this,—*That General Stuart's suspension should be taken off, and that, on a vacancy in the Command in Chief, he should be restored to it, in the same manner, and under the same circumstances, that it was formerly held by him, or that it has been since held by Sir Hector Munro.*

As General Stuart entered into your service upon an express agreement, that he should succeed to the command on the death, resignation, or removal of Sir Robert Fletcher; and as he had actually succeeded to that command, strict justice might possibly require, that when you are satisfied as to his innocence, or convinced that he has suffered beyond the magnitude of his supposed offence, he should be *directly* restored to the situation from which he had been displaced.

But as I am thoroughly satisfied that such a measure, though just, with regard to my Brother, would be highly injurious to General Munro, I have not the smallest hesitation to declare, That while General Munro, with your approbation, chooses to retain the situation of Commander in Chief, there shall never be any request or application from me, that has even a tendency to interfere with his wishes in that respect.

My request is merely, that your orders for General Stuart's restoration should take place on Sir Hector Munro's leaving the settlement; and that the suspension, which was originally inflicted for the space of six months only (though, by the effect of accidents rather than from any direct intention on your part, it has had a much longer duration), should be immediately removed.

By this arrangement, attention will be paid both to the interests of General Munro and of General Stuart; and, I believe I may be permitted to add, to those likewise of the East India Company. For by these means they may be assured of the services of two officers, both of whom are qualified, by their rank and experience, for rendering essential services to the Company in the higher situations of command. And it is well known to you, Gentlemen, that it has long been the opinion of those best acquainted with your affairs; and particularly, that it was the opinion of Lord Clive, one of the greatest authorities on a subject of this nature, that in that part of the world, where the continuance of life and of health is much more precarious than in European climates, you ought never to be unprovided with a succession of officers in the higher ranks of the military profession; who, by adding local knowledge to other abilities, might be qualified for command on great emergencies; without which, all your other efforts must, probably, be ineffectual.

Upon due consideration of the request now made, I flatter myself you will find that it aims at nothing either immoderate or unreasonable.

If any solid objection had occurred to me, I should have thought it my duty to avoid troubling you upon any proposition not qualified to stand the test of your most mature deliberations.

But unable to discover any that are just and well-founded, I have next endeavoured to find out, whether some objections, carrying with them at least a plausible appearance, might not be started against what I have proposed.

Under this description, something like the following only have occurred.

That after all the clamour raised about the disturbances at Madras, and about the part taken in them by General Stuart, the replacing him in his former situation until he had obtained a sentence of acquittal from a Court-Martial, or some other regular tribunal, would, in effect, be absolving him without any punishment, or chance of punishment.

The best answer on the part of General Stuart, to this objection, is in the recital of his sufferings, and in the review of his conduct. The first shews that he has, in fact, been *punished*; and the second, that he has solicited repeatedly for a trial, and by that means repeatedly called aloud for punishment, if he deserved it.

It has been his peculiar misfortune, that his hardships have preceded his trial, or any legal proofs being established against him. But it would be a still greater misfortune, if, because he has constantly been refused a *legal trial*, he should be charged with not having been *legally acquitted*.—But this reasoning, absurd as it may seem, has given occasion to people to say, that General Stuart has no right to complain, because his conduct has undergone no *legal censure*, and that he has himself undergone no *punishment*. He has not been *punished*, it is said—he has only been *suspended*.—It is not denied, however, that this *suspension* has affected, first, his situation in the East India Company's Service; and next, his rank in the King's Service; and that both those suspensions might be fixed upon

him and perpetuated, a third suspension has taken place,—*The suspension of his trial.*

Is it possible, Gentlemen, for any man to believe that those hardships which, if inflicted upon General Stuart under the word *punishment*, would have been intolerable, imposed under the word *suspension*, are in the slightest degree mitigated, or less grievous; and that a change of the expression can in any manner alter the nature of the thing?

By assigning his not having been *tried*, as a reason for his not being *redressed*; the denial of justice, and the refusal to hear, are circumstances not only in themselves injurious, but are made use of likewise as the foundation and the defence of further injustice; and the refusal to replace him, because he has not obtained a *sentence of acquittal*, must lead to the perpetuating his misfortunes; for it has been already shewn that, from the *lapse of time*, as well as from other considerations, it is now become impossible for him ever to expect a Court-Martial.

But although all hopes of obtaining that particular species of trial are at an end, he still is liable to be tried, and is ready, at any time, to answer to the laws of his country in the ordinary course of justice, for any offence that can be alleged against him. And indeed the opinion and judgment of a court of high authority in this country has, in effect, and by necessary inference in the manner already explained, been obtained upon the nature, extent, and consequences of any offence that could be imputed to General Stuart for his obedience to the Orders of the Majority of Council.

These considerations are, I apprehend, of themselves sufficient to afford a complete and satisfactory answer to the supposed objections above mentioned, in case such objections should, in any quarter, happen to be made, and be thought deserving of attention.

I cannot, however, help being apprehensive that I have been led, from anxiety for a Brother, to give you some unnecessary trouble

in stating and refuting objections which are merely possible; for, upon reflection, it seems to me, that no one well informed on the subject, can entertain a serious wish to oppose a measure which comes so strongly recommended by considerations of propriety, justice, and even of humanity.

General Stuart had attained a very high situation,—He was Commander in Chief of a great army belonging to the East India Company in the Carnatic.—How highly he had improved the discipline, and increased the strength of that army, has been universally acknowledged. His efforts contributed greatly to make that army equal to the accomplishment of the most important enterprises:—But, unfortunately, almost at the very moment of their execution, the orders from the India-house first suspended him from the service; and afterwards removed him from the command.

In the course of a few months the hostilities with France commenced. The moment he heard of those hostilities, forgetting, or acting as if he had forgot, the indignities under which he was suffering, he made an offer of his services;—and though, but a few months before, he had been at the head of that army, he waved every pretension to rank, and desired to be placed in any situation where there might be any prospect of his being useful.—But even this zealous and humble offer was rejected; his suspension being thought a bar to the acceptance of his services.

Thus, your orders for his *supercession* deprived him of the highest military situation; and the order for his *suspension* prevented his being useful in the very lowest.

Reduced from being Commander in Chief, to a mere private individual, he has remained for years in this useless degraded situation; urging incessantly, by his friends at home, and personally himself in India, requesting and demanding a trial; not with the usual apprehensions of a person to be tried, but with all the zeal and eagerness of a vindictive prosecutor.

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The being removed from the command of a great army, at any period, you must be sensible, is a loss, very affecting to a military man; but when, in addition to the loss itself, the particular time of that removal is considered, no one, I am persuaded, can be so completely indifferent to the misfortunes of others, as to imagine, that the redress proposed, exceeds, or is in any degree equal to, the extent of General Stuart's sufferings, losses, and disappointments, when the nature of them is fully considered.

He was obliged to surrender the command of the army into other hands, at a time when that surrender was immediately followed by all the honours, distinctions, and rewards, which so properly attended the successful event of the siege of *Pondicherry*.—That they were merited by the officer, who, acting in General Stuart's place, has enjoyed them, is not by me, or in any quarter disputed; but it cannot be deemed, nor, I believe, would General Munro himself consider it, as any detraction from his merit, to suppose, that the same enterprise, with the same army, would equally have succeeded under the command of General Stuart, who has had the advantage of much experience, and whose military merits have been undisputed, even by his enemies.

The hardships of an officer are not to be measured merely by the length of time he has been suspended from the service (though even in that view, General Stuart's sufferings have been very considerable), but by circumstances which are far more affecting,—by the means of signalizing himself, which have been lost, by the openings for activity, and distinguished opportunities of service, which seldom offer, and scarce ever return.

When the whole of this matter is thoroughly known, and considered, will it be *seriously* pretended by any one, that General Stuart has undergone no severities, and suffered no *punishment*?—Or can it be supposed, by those who consider what constitutes the pride and happiness of an officer, that the immaterial fine imposed by a Court of Law upon the persons *tried* and *principally accused*, bears any

any sort of proportion to what General Stuart, *untried*, has been obliged to suffer for his *inferior* supposed offence?

In addition to the title which he has to redress on account of his sufferings, he flatters himself that he has a still further claim, Gentlemen, to your favour and protection, as guardians of the interests of your constituents, on the grounds of his *acknowledged merits*.

That attention should be paid, and ample justice done, to officers who have distinguished themselves by beneficial exertions in your service, will be at all times essential to the honour and interest of the India Company.—But it is particularly so at this time, when the increasing number of our enemies will call for every exertion in India, where both local and military knowledge are absolutely necessary, and where those who stand distinguished by a union of these qualities will principally be looked up to, as the most capable of performing any *future services*.

To the credit of the East India Company, instances never have been wanting in which they have acted towards meritorious officers upon these wise and honourable principles; and it has been remarked, with pleasure, that, upon these principles, your conduct has, in a conspicuous manner, been regulated in the recent instance of the favour shewn to that deserving officer *Major Horne*.

The same unfortunate dissensions at *Madras*, which had occasioned your displeasure to *General Stuart*, had also subjected to the same misfortune *Major Horne*, *Captain Edington*, and *Captain Lysaught*. Your orders directed that those three officers, as well as *General Stuart*, should be tried by a Court-Martial, on account of the share they severally had in the seizure or confinement of *Lord Pigot*.

No Court-Martial was held on those Gentlemen, in consequence either of your first orders in 1777, or of your renewed orders in 1778. The difficulties which had occurred to the Governor and Council against granting

granting a Court-Martial on General Stuart, prevented also the trial of those other officers. In this situation, they sustained several temporary hardships, accompanied with evident marks of your displeasure.

When the news reached Madras in Summer 1778, of the commencement of hostilities with *France*, and the siege of *Pondicherry* was resolved upon, *Major Horne* made an offer of his services, and that offer was accepted. He commanded the artillery; and from his experience, zeal, and abilities, contributed greatly to the success of that enterprise. Particular commendations of his services were sent home; and the immediate consequence was, that, in 1779, you sent out instructions to Madras, that *Major Horne* should be restored to the command of *Tanjore*, which command he had attained subsequent to the disturbances at Madras, but from which he had been displaced in consequence of your orders for his trial. The instructions sent out in 1779, for his restoration to that command, were, however, qualified with this condition, "in case he had been tried and acquitted by a Court-Martial."

As *Major Horne* could obtain no trial, and of course no acquittal, that condition which made a trial necessary, would of itself have been sufficient to defeat all your favourable intentions, had he remained in India; but he had sailed for England before your orders reached Madras.

His case came under the consideration of the Court of Directors within these few months, and at that time it was known that there had been a second refusal at Madras of the military trial to General Stuart. The Court, therefore, judged it proper, on every account, to take upon themselves the decision of *Major Horne's* case. Upon the examination of it, they have not only abstained from any *censure upon his conduct* in the Madras disturbances, but they were so fully satisfied of his *military merits*, and of material services he had rendered, and might probably hereafter render, to the Company, that on the 2d of January last, they expressly *rescinded* their former orders for

for Major Horne's trial by a Court-Martial; and on the 3d of January it was further resolved by the Court of Directors, that Major Horne should return to Madras with the rank of *Colonel of Infantry*, next above Colonel Lang, which gives him an advance of four steps, and has the effect of placing him next in command to General Stuart upon the Madras establishment.

Both the attention paid to this deserving officer, and the mode of doing it, give to all the arguments I have employed in behalf of General Stuart, much additional force.

What you have so recently done in Major Horne's case, affords more than a precedent, and goes far beyond the very moderate request I have made in favour of General Stuart.

In what I have taken the liberty to propose for my Brother, I have not requested that he should receive any new or additional mark of your favour, in compensation of his sufferings; nor have I aimed at his being *immediately* restored even to the same situation he formerly held; I have only proposed, that his restoration should take place eventually, and upon the first vacancy.

When the reasonableness of this proposition is compared with, and found to fall so far short of, what you yourselves have done in the case of Major Horne, it is hardly possible to imagine that the compliance with the request I have made can suffer a moment's hesitation.

Your orders for the military trials of *General Stuart*, *Major Horne*, *Captain Edington*, and *Captain Lyfaught*, originated from the same cause—the share they had in the seizure or confinement of Lord Pigot;—but none of these officers having been able to obtain a trial by a Court-Martial, it has been dispensed with, and the order for it rescinded, in the case of Major Horne, and will, from the reason of the thing, be dispensed with in the case of the other officers. Major Horne, Captain Edington, and Captain Lyfaught have been employed in your service since the time that your orders for their trials arrived in India; and the advantage of their having been employed, appears from the services they have performed

in their several military situations; for, singular as it is, it so happens, that your displeasure, in consequence of the unfortunate disturbances at Madras, fell upon *four officers*, who were distinguished for their zeal and their abilities in the Company's military service.

But though the orders which you sent to India for a military trial extended equally to them all, yet the refusal of that trial has been productive of greater misfortunes to General Stuart, than to those other officers to whom the orders for a trial related.

In the *first place*, General Stuart, alone, has suffered from the temporary *stoppage of the pay*; for that part of your directions, though expressed in general terms, has, in its application, been confined to his case in particular.

Secondly, The services of the other three officers, while under orders for trial, were accepted of, but his were rejected.

Thirdly, As General Stuart was at the head of the army, and, if he had not been superseded, would have commanded in chief at the siege of *Pondicherry*; a complete reparation of his injuries becomes almost impracticable. In ordinary cases, where the displeasure at an officer has ceased, the reparation is generally made by reinstating him directly in the situation from which he had been displaced, and sometimes by a further promotion. But the supersession of General Stuart, by an officer sent from England on purpose, has so increased the difficulties of doing complete justice, that I have found it reasonable, though severe upon him, to wave any pretensions to his being restored to his former situation, until the officer, by whom he was superseded, chooses to quit the command.

My argument is not, that those officers who were ordered to be tried in the same manner as General Stuart, have suffered *too little*.—What I know of their characters, and of their having acted from a sense of what they considered to be their duty, makes it impossible for me to entertain any such idea; but the argument suggested by the facts I have mentioned is, that General Stuart has suffered *too long*, and greatly *too much*.

What

What reason, or inducement, then, can there be for the continuance of so disproportioned a measure of punishment? And must not the East India Company feel themselves strongly called upon, in justice to General Stuart, and from a sense of propriety, to afford every possible relief to one whose hardships have been beyond all bounds, and whose services have long been acknowledged, and particularly by your Letter of the 14th of April, 1779, where his conduct, in what related to the civil as well as military concerns of the Company, has been approved of in terms highly flattering and honourable for him?

As some account has been given of those services, in the Letter which I had lately the honour to address to Lord Amherst, I think it my duty to abstain from any repetition on that subject.

From the unfortunate circumstances of the times, every thing that is valuable to the East India Company in *Indostan*, may now, perhaps, be decided by the events of war; for, besides the contests in which the Company are engaged with some of the country powers in India, there now exists a state of war with the French, who certainly will be disposed to improve every opportunity of injuring the East India Company, and benefiting themselves in that part of the world.—The state of hostilities lately commenced with the Dutch, adds to the number of foes in India, and may probably give birth to many military operations, either offensive or defensive, in that quarter of the globe.

If, then, there are officers in the Company's service, and now upon the spot in India, who are qualified to be highly useful to the State, can this be the particular and well-chosen time for the Company to deprive themselves of all possible utility from any officer of that description? Or is it consistent with the interests of the State, or of the Proprietors of the East India Company, that such a plan of conduct should be adopted, and at such a crisis, and that the merits of those officers should be at once extolled and neglected?

It is not for me to say how far this description of officers qualified to render essential services, at such a crisis, may be particularly applicable to General Stuart; but without subjecting myself to the imputation of partiality or presumption, I may be permitted to observe, that General Stuart either is, or ought to be, qualified to answer that description.—He has had the advantage of a regular professional education, had many opportunities, and particularly during the last war, of seeing real service, of acting under respectable commanders, and in situations well calculated to form an officer.—And as military knowledge has been the great object and study of his life, it is at least probable, that the estimation in which he is held by military men as a useful officer, is not entirely without foundation.

You yourselves, Gentlemen, in your Letter of April 1779, have been pleased to express this opinion of his military merits, and to found upon them an expectation of *important future services*.

But if the compliments that have been paid to him by the Court of Directors, are followed with no consequences that may stop the current of his misfortunes, and reinstate him in a capacity of being useful to the Public, what a discouragement will it be to the zeal of officers in your service, to exert themselves in acquiring those praises which they have hitherto been accustomed to consider as so valuable, and as the certain earnest of your future favour and protection?

Thus, Gentlemen, I have laid before you all the material circumstances of General Stuart's case;—his supposed offence;—his actual sufferings;—the refusal of his trial;—the acknowledgment of his merits;—and the method of redress which he thinks himself well entitled to solicit and expect. I considered it as a part of my duty to represent to you all these particulars,—it is your province to decide upon them; and I have nothing further to add,

I
before

before I conclude this Letter, but a repetition of the assurances I gave you at the beginning of it, that no occasion can, I think, possibly occur, which shall induce me to give you any further trouble ; for, if all I have already said shall not be found sufficient to explain the unmerited hardships of General Stuart's situation, and to impress strongly on your minds the justice and necessity of affording the proposed relief, I despair of succeeding in that attempt by any further endeavours ; and I shall sit down, suspecting, that there either is some weakness in General Stuart's case, which my partiality prevents me from discovering, or that I have not been able to put forth the strength of it in such a manner as it deserves ; and it must be left to the impartiality of the world at large to decide, Whether the refusal of all redress to General Stuart (if such refusal can be possible) ought to be imputed to the defects of his cause, his advocate, or his judges ?

I have the honour to be, with great respect,

GENTLEMEN,

Your most faithful,

And obedient humble servant,

BERKLEY-SQUARE,
March 5, 1781.

AND^w. STUART.

[17]

The first of these is the fact that the
government has been unable to secure
the necessary funds to carry out its
policy of non-interference in the
internal affairs of the country.

The second is the fact that the
government has been unable to secure
the necessary funds to carry out its
policy of non-interference in the
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internal affairs of the country.

A
L E T T E R
TO THE HONOURABLE
The Directors of the East-India Company,
FROM
ANDREW STUART, Esq.

[November, 1781.]

GENTLEMEN,

SOME Letters, which I have lately received from India, from my Brother Major-General Stuart, oblige me to give you the trouble of this application. These Letters acquaint me of his trial by a Court-Martial in December last, 1780; and that the result of the Trial was an honourable acquittal: but that, in consequence of a paragraph inserted in the Instructions sent to India, respecting his trial, the Governor and Council of Madras entertained doubts, how far they were at liberty, notwithstanding the acquittal, to pay to General Stuart the arrears due to him, until the Court of Directors should be pleased to send out fresh instructions on that head.

I find myself, therefore, obliged to trace the several Orders which have been sent to India respecting General Stuart, and to submit to your consideration the circumstances under which he flatters himself, that there can be no hesitation as to the justice of his claim; and that, after all the hardships he has suffered, you will be pleased to give orders to your Servants at Madras on this subject with as little delay as possible.

When General Stuart entered into your service in the year 1775, it was in the situation of Second in Command of all the East India Company's forces upon the Coast; and, upon an express agreement, that, on the death, resignation, or removal of Brigadier General Sir Robert Fletcher, then Commander in Chief upon the Coast, he, General Stuart, (who, at that time, had the rank only of Colonel in your service), should succeed to that command, and to the rank of Brigadier

General, in the same manner as they were enjoyed by Sir Robert Fletcher.

Dec. 1776.

Upon the death of Sir Robert Fletcher, in December 1776, Colonel Stuart became of course Commander in Chief, with the rank of Brigadier General, in the Company's service.

In that situation of Commander in Chief, he continued till the month of August 1777, when Mr. Whithill arrived at Madras, with a new appointment of Council, and a temporary commission of Government in consequence of the disturbances which had happened at Madras in August 1776; and Mr. Whithill, who was dispatched from England in June 1777, carried out with him an order for General Stuart's suspension during six months.

In the month of July 1777, Sir Thomas Rumbold was appointed Governor of Madras, and carried out with him a new commission of government. The Company's General Letter to their servants at Madras, sent out by him, contained the following paragraph:

July 1777.
First order
for General
Stuart's trial.

"Although, by our Orders of the 11th June, we have suspended Colonel James Stuart for six months from the time of the arrival of those Orders in India, it is nevertheless our pleasure, that you immediately order a Court of Enquiry to examine into the conduct of Colonel James Stuart, Lieutenant Colonel James Edington, Major Matthew Horne, and Captain Arthur Lyfaught, during the late troubles; and that they be each of them tried by a Court-Martial, so soon as a Court of Enquiry shall have ascertained the facts, and prepared the charges upon which such trials are to be founded."

These Orders, of July 1777, were brought to Madras in February 1778; and at the same time General Stuart found himself superseded in the command of the army, by the appointment of another Officer, General Munro.

From the moment that these orders reached Madras, General Stuart applied himself with the utmost zeal and assiduity to obtain his Trial by a Court-Martial, as had been ordered by the Company; but that

Trial

Trial was, in the month of March, 1778, expressly refused to him by the Governor and Council at Madras; and of course a negative was also put on the Trials of Colonel Horne, Major Edington, and Captain Lyfaught.

The Trial
refused in
March 1778.

In the month of December 1778, fresh instructions were sent by the Court of Directors to the Governor and Council at Madras, requiring them to proceed to the Trial of General Stuart by a Court-Martial; and directions were sent with regard to the mode of proceeding in it.

Dec. 1778.
Second Or-
ders for Ge-
neral Stuart's
Trial.

At the same time, the General Letter from the Court of Directors, to the Governor and Council at Madras, contained the following paragraph:

"As we must now take it for granted, that a Court-Martial will be assembled, without delay, to try Brigadier General Stuart; and that he will be legally acquitted or condemned by the most proper tribunal: We shall only add, by this opportunity, that whatever may be the sentence of the Court-Martial to be held on Brigadier General Stuart, or on any other military officer, in consequence of the late troubles, you are to observe, that the pay and emoluments of every such officer ceased immediately on his suspension from the service; and that even if sentence of acquittal shall be passed by the Court-Martial, no suspended officer shall receive any allowance on the Company's account for any part of the time which he has remained or shall remain under suspension, except by the express order of the Court of Directors, to be first signified to you for that purpose."

Paragraph
respecting the
stoppage of
pay.

In the beginning of the year 1779, the Court of Directors thought it proper and suitable, on their part, to take a particular view of General Stuart's conduct, from the time that he had entered into their service, as collected from the records and consultations of the Madras Presidency; in consequence of which scrutiny, the Directors, in their Letter to the Governor and Council at Madras, dated the 14th of April, 1779, were

1779.
April 14.
Further in-
structions re-
specting Ge-
neral Stuart.

pleased

pleased to express the highest approbation of General Stuart's active services and conduct, in various material transactions, specified in the Letter, and which had occurred in India, during the time that he was a Member of the Council at Madras, after the death of Sir Robert Fletcher.

That Letter concludes with the following paragraph: " Having
 " thus given you our sentiments on the conduct of General Stuart,
 " independent of every consideration relative to the late troubles; and
 " confirmed as we are in our opinion of his great experience, and of
 " his ability to render the most important service to the Company in
 " the present conjuncture of public affairs, we think proper to acquaint
 " you, that in case the event of General Stuart's Trial by a Court-
 " Martial shall be an honourable acquittal, we shall be well satisfied that
 " he remain in India, as Second in Military Command at Fort St.
 " George, during the continuance of General Munro at that settlement;
 " and that he succeed to the Chief Command of the Troops on the
 " Coast, upon the first vacancy that shall happen in such command,
 " after he shall have been so acquitted by a Court-Martial as aforesaid."

At the time when the Court of Directors wrote the above Letter to their Servants at Madras, General Munro had intimated his intentions of returning speedily to Britain.

These letters of December 1778 and April 1779, reached Madras in the end of the year 1779, and General Stuart immediately used every effort to forward your intentions respecting his trial; but in the month of February 1780, he received two Letters, signed by the Governor Sir Thomas Rumbold, the Commander in Chief Sir Hector Munro, and by Mr. Whithill and Mr. Smith, Members of the Select Committee, acquainting him, that such difficulties had occurred to them as appeared insurmountable, and that therefore they were determined to refer the matter back again to the Court of Directors.

One of the difficulties, which in particular they laid great stress upon, was founded on this circumstance, that the Directors in their Letter of December 1778, which contained the renewed Orders for a Trial by a

The Trial
 again refused
 in February
 1780.

Court-Martial, had accompanied these Orders, with a direction in the same Letter, for the *stoppage of General Stuart's pay*; a circumstance which was superadded to the first Orders which had been issued for his Trial, and, therefore, in their opinion increased the difficulties of granting it.

The accounts of this second refusal of General Stuart's Trial having reached this country towards the end of the year 1780, I took occasion in the months of January and March last, 1781, to state these facts, with a particular detail of what had happened, in two Letters, one of which I had the honour to address to Lord Amherst, and the other to the Court of Directors. The object of that addressed to Lord Amherst was, that General Stuart, who had done every thing in his power to obtain a Trial by a Court-Martial, should be restored to his rank in his Majesty's service, which had been kept in suspense, until the event of that proposed Trial by a Court-Martial should be known; and the object of the other Letter, addressed to the Court of Directors, was, "that General Stuart's suspension in their service should be taken off; and that on a vacancy in the Command in Chief, he should be restored to it in the same manner, and under the same circumstances, as it was formerly held by him, or that it has been since held by Sir Hector Munro."

The consequence of the application to Lord Amherst was, that upon weighing all the circumstances of General Stuart's case, and the hardships he had sustained, the rank of Colonel in his Majesty's service was granted to him, with a retrospect to take effect from the time of the promotion of Colonels in August 1777; and further, his Majesty was graciously pleased, upon the first day of June 1781, to grant to Colonel Stuart the rank of Major-General in the King's service in India; and finally, in the month of October last, General Stuart has had an additional instance of his Majesty's favour, by his promotion to the complete rank of Major-General in the Army.

On your part, Gentlemen, similar instances of your good opinion and favour to General Stuart, in what related to his situation in your service,

vice, took place some months ago; and it is with pleasure that I acknowledge it, for the consideration of the circumstances of his case, which had been set forth in the two Letters before-mentioned, produced such resolutions on your part as gratified the wishes of his friends;—you gave Orders that his suspension should immediately be taken off, and laying aside any further thoughts of his Trial, your directions to the Governor and Council at Madras, in your Letter of the 5th of April last, 1781, were, that they should avail themselves of General Stuart's services in the critical situation of affairs in the Carnatic.

The favourable resolutions thus taken with regard to General Stuart, both in his Majesty's service, and in that of the East India Company, implied that the known circumstances of his conduct, his general merits, and the hardships he had suffered, were such as now superseded the necessity of his Trial.

It appears, however, by the dispatches lately brought from India, that General Stuart's zeal for obtaining a Trial by a Court-Martial had continued uniformly the same; and though he had no hopes of ever obtaining that Trial from the same persons who had repeatedly refused it to him, yet a change of circumstances having happened in the Carnatic, and in the state of the Council at Madras, by Sir Eyre Coote's arrival there from Bengal in the month of November 1780, General Stuart took the first opportunity of renewing his solicitations for an immediate Trial by a Court-martial. In doing which, he was actuated by two motives; the one, that he might have that public opportunity of wiping off all aspersions that had been attempted against his character or conduct; and the other, that he might have it in his power, in the most expeditious manner, to dedicate his services to the East India Company and to the Public, while the critical situation of affairs in the Carnatic required the active assistance of every Officer in the service, who happened to be upon the spot.

These considerations had their just weight with Sir Eyre Coote, who was of opinion, that the Trial repeatedly ordered by the Company, and so earnestly solicited by General Stuart himself, had been improperly refused

refused by the Company's Servants at Madras ; and, in consequence of Sir Eyre Coote's effectual interposition and liberal sentiments on this subject, the Trial took place on the 12th day of December, 1780. It continued during the 12th, 13th, 14th, and 15th of December, and the result was an *honourable Acquittal*, as appears from the sentence of the Court-Martial, which is in these words: "After the most mature consideration of what hath appeared for and against the Prisoner, Brigadier General James Stuart, the Court are of opinion, that he is NOT GUILTY OF MUTINY, as exhibited in the charge against him by the East India Company, and they do therefore HONOURABLY ACQUIT HIM."

The Trial granted by Sir Eyre Coote, in Dec. 1780.

Sentence of the Court-Martial, Dec. 15, 1780.

This sentence, which was signed by Lord Macleod, the President of the Court-Martial, was approved by Sir Eyre Coote, the Commander in Chief, and by him was sent to the Governor and Council for their information ; who, in consequence thereof, and in conformity to your Orders of the 14th of April, 1779, gave out a General Order of 21st December, 1780, declaring "General Stuart to be Second in Military Command at Fort St. George, during the continuance of Sir Hector Munro ; and that he was to succeed to the Chief Command of the Troops on the Coast, on the first vacancy that should happen, either by death or otherwise."

Dec. 21, 1780. General order issued at Madras.

On the 11th of January, 1781, the following General Orders were issued: "The Honourable the President and Select Committee have been pleased to appoint Brigadier General James Stuart, to the command of the Troops of the Garrison of Fort St. George, of those stationed in the Black Town, and of those within the environs of Madras." Accordingly General Stuart entered immediately on that command ; and it appears from the reports sent home of the steps taken, that before as well as after the date of the above appointment, the utmost diligence was used in putting the place in the best posture of defence ; and that when the French Squadron soon thereafter appeared off Madras, they found matters so well prepared, that they did not attempt any thing either against the place, or against the five India ships which had laid themselves under the protection of the Fort.

Jan. 11, 1781. Further General Orders issued.

Having thus, Gentlemen, brought under your view the several Orders sent to India respecting General Stuart, and the consequences of them, I may be allowed to presume, that it is hardly necessary to make use of any arguments for enforcing the justice of his claim to the immediate payment of those arrears of pay and emoluments, which were kept in suspense, until the event of his Trial should be made known to the Court of Directors.

It is an established maxim, founded on the most obvious principles of justice and equity, that a person tried and acquitted, shall be considered and treated as if he had never been accused.

In many respects, indeed, it is not possible to make reparation to General Stuart for what he has suffered by his suspension and supercession during many years, and by the repeated refusals of that Trial, which, when granted at last, has afforded the opportunity of an *honourable acquittal*.

It is not easy to estimate the losses and mortifications he suffered, by being deprived of the command of the army at critical periods, when he might have had an opportunity of acquiring honours, and of distinguishing himself by useful services to his country, and to the East India Company.

But on the footing merely of pecuniary losses, he must be a considerable sufferer, even after the arrears of his pay and emoluments are made effectual to him; for the various contests in which he has been engaged since the date of his suspension in the year 1777, and the struggles he has had to maintain in contending for redress, as well as the charges of the proceedings upon the Trial itself, have been attended with expences of very considerable magnitude.

The claim he now makes, is, however, confined to those arrears of pay and emoluments, which he would have received if he had not been suspended, and which, though kept in suspense until the event of his Trial by a Court-Martial should be known, he was intitled to, so soon as the East India Company thought proper to remove his suspension, and to dispense with his Trial; but more particularly, he became in-
titled

titled to receive those arrears, in consequence of his actual Trial, and honourable Acquittal.

Part of these arrears he has already received by partial payments, which were made to him by the Governor and Council at Madras in the years 1778 and 1779, before the Letter of December 1778, which contained the first instructions from the Court of Directors with respect to the temporary stoppage of his pay, had reached Madras: On this subject there is the following paragraph in a Letter from the President and Select Committee to the Court of Directors, dated the 17th of October 1778:

“ General Stuart having addressed a letter to us, requesting that his
“ allowances might be continued to him, until your further determi-
“ nations on his case were signified to us, we took the same under
“ consideration; and though we did not think proper to comply with
“ the full extent of his desire, we granted him such a proportion of
“ allowance as appeared reasonable and suited to his rank, upon his
“ entering into an obligation, to refund the whole, or such part as
“ you might disapprove.”

It is believed, that, in the interval from October 1778, till the end of the year 1779 (when your General Letter of December 1778 reached Madras), further advances were made by the Governor and Council to General Stuart to account, and upon bonds granted by him in a similar manner.

The Letter before mentioned, from the Court of Directors of the 14th April 1779, reached Madras at the same time with their Letter of December 1778. That Letter of April 1779, which contained the most honourable approbation from the Court of Directors of General Stuart's conduct on various occasions, clearly indicated, at the same time, a wish, on their part, that he should *remain in India*, where the conjuncture of public affairs afforded the prospect of his rendering important services to the Company in the event of his acquittal by a Court-Martial. The terms of that Letter, as well as the Order for his Trial, made it impossible for him therefore to think of *leaving India*;

as little could it ever be the intention of the Court of Directors to render it necessary, or to make it a duty upon him, to remain in India, and at the same time to deprive him of the means of remaining there, in a situation suitable to the rank which he had already held in their service.

It is still the less possible, that any such intention could exist, when it is considered, that his state of suspension was, by the delays of his Trial, continued for several years, and beyond all expectation, not through any fault on his part, who was constantly soliciting that Trial, but through the fault of those who refused it.

One of the reasons given, and much insisted on by the Gentlemen of the Select Committee, for refusing the Trial, and for referring the matter back again to England, was, that the Court of Directors had thought proper to stop *General Stuart's pay*; and, in their Letter of March 1780, it was particularly recommended by them to the Court of Directors, that they should annul that order, and restore to him his pay; but it would be peculiarly hard indeed upon General Stuart, if he were to be made to suffer in a double capacity; first, that his trial had been refused or delayed, because his pay had been stopt, until the event of the trial should be known; and then, that this refusal of his trial, and the delays produced to it should, to a certain extent at least, be the means of depriving him of his pay.

I shall only beg leave further to mention, that, even during that tedious interval, while General Stuart, by his suspension, and the repeated delays of his trial, was suffering every personal disadvantage, the East India Company had, upon several occasions, the benefit of useful assistance from him, in consequence of his being personally on the spot in India:—his zeal for the interest of the Company never abated; and it will be acknowledged, that his professional and local knowledge were of use upon many occasions, by the communication which he frankly gave of his sentiments upon every subject which could tend to promote the interests of the Company or of the Public. Of this I have in my possession many convincing proofs.

It is also well known, that, upon two essential occasions, while he was under suspension, he made offer of his services in any rank or situation where they could be deemed useful; the first occasion was upon the siege of Pondicherry being undertaken, and even after that offer was declined (because he was under suspension), he kept up a regular correspondence with the engineer and other officers employed in that siege, suggesting, from his experience in sieges and his local knowledge of Pondicherry, every idea that occurred to him for promoting the success of the siege then depending.

The second instance of the same sort was, when the disasters happened in the Carnatic in the year 1780. Upon the first news of which, General Stuart, though he thought himself ill used by the government at Madras, which had refused his Trial, instantly made offer to them of his services in any station.

Before any intelligence was received of Hyder Ally's entering the Carnatic, General Stuart, with a view of adding to his local knowledge, during what he called his *involuntary leisure*, had in the month of July 1780, set out upon a tour through the Northern Circars: in the course of which, he visited every garrison and considerable place belonging to the Company in those parts; and the journal which he has sent home, containing his observations and an account of his proceedings, affords strong proofs of his time having been profitably spent for the interests of the Company.

He was employed in that Tour during the space of three months, from the 11th of July till the 11th of October 1780, during which period he reckons that he had travelled near 1700 miles, which was attended with considerable expences to himself. He happened to be at Masulipatam in the month of September, when the news first reached that place of Hyder Ally's irruption into the Carnatic, and of the disasters which had been the consequence of it. This news determined him to return immediately to Madras, to make offer of his services in person, in addition to the offer he had made by letter the very day that the news arrived; but, before leaving Masulipatam, he had it in his

his power to render some services to the Company by the Letters which he dispatched to one of the Supreme Council in Bengal, containing very early and particular accounts of what had happened in the Carnatic, and suggesting every thing that occurred to him with respect to the supplies of men, money, and provisions, &c. that would be needed from Bengal.

In another respect, it was fortunate that General Stuart happened to be at Masulipatam at that time ; for six Grenadier Companies of Sepoys then at Masulipatam, had been ordered to Madras, in consequence of the late misfortunes, and they were destined to go thither by sea. This they were unwilling to do ; it gave rise to discontent, and some symptoms of the commencement of a mutiny amongst the troops. General Stuart was, on the 29th of September, applied to by Mr. Cotsford, the Chief of the Settlement, and was sent for to the Board, where his mediation was requested, for quieting the Sepoys, and prevailing upon them to embark cheerfully. He applied himself immediately to that business, conversed with the Sepoys in the manner most likely to have influence with them, made offer to accompany them in the vessel from Masulipatam to Madras, and conducted matters so happily, that, on the 2d of October, he marched at the head of the Grenadier Companies from the parade, on board the ship, Pensbourne, without any one Sepoy deserting. He sailed with them on the 3d of October from Masulipatam, and arrived at Madras on the 11th, where he delivered over these six Companies of Grenadiers in good health and spirits, and perfectly satisfied with the attention that had been paid to them ; and this successful attempt of prevailing upon Sepoys to go from one settlement to another by sea, was considered as of some consequence, besides the utility of bringing speedily to Madras these six Companies, at a time when they were so much wanted there.

These things I have thought proper to mention as proofs of General Stuart's uniform zeal for the good of the service, though unnecessary to be stated as arguments for his pay and emoluments ; for I apprehend that even if he had been of no utility whatsoever to the Company during

ring the time that was consumed by his suspension, and the delays of his Trial, which were not imputable to him, still his right to his pay and emoluments, during that interval, would have remained in full force ; and according to the practice in all similar cases, must have been rendered effectual by the completion of the Trial, and the sentence of Acquittal.

The paragraph in the General Letter of December 1778, concerning the stoppage of pay, until Orders on that point should be signified from the Court of Directors subsequent to the Acquittal, was certainly never intended as a declaration by the East India Company, that they meant to punish *the person acquitted*, by a forfeiture of his pay; neither could it be understood that the Orders for a Trial, followed by a subsequent Sentence of Acquittal, were in this case to produce effects different from what had ever taken place in any military service; but there is every reason to believe, that the understood as well as the expressed intention of the paragraph relating to the stoppage of pay, extended no further than to a *delay* of the *actual payment*, until the Court of Directors should have an opportunity of being informed of the Sentence of the Court-Martial; and that, in consequence thereof, they should judge it proper to send out an express order for the payment.

The delay of actual payment occasioned by the above-mentioned paragraph becomes however a real hardship, not only from the great length of time during which General Stuart's suspension has been continued, in consequence of the repeated refusals of his Trial; but also from this circumstance, that it has required more than ten months for the news of the event of the Trial at Madras to reach England, and must require a considerable time at least before your Orders in consequence thereof can reach that distant part of the world.

These considerations will, I hope, plead my excuse with you, Gentlemen, for laying this matter so fully before you; and for requesting that you may be pleased, with as little delay as possible, to issue your Orders for making effectual to General Stuart the pay and emoluments due to him, which were incurred in the period between the time of

his suspension, in the year 1777, and the date of his Sentence of Acquittal in December 1780; and, for that purpose, as he has already received part of his pay, upon bonds granted by him, as mentioned in the preceding part of this Letter; that you will be pleased, at the same time that you order payment to him of the balance now due, to give Orders, that the bonds which he granted for the sums already received to account, shall be delivered up to him.

I have the honour to be, with great truth,

GENTLEMEN,

Your most faithful,

And obedient humble servant,

BERKLEY-SQUARE,
Nov. 1781.

AND^w. STUART.



Extract of Letter from the board
of Directors of the East India Company
to the Governor and Council at Fort St.
George Dated 25th of January 1702.

As Major General Stuart had been tried by
Court Martial and honourably Acquitted before the
Receipt of our Order for the removal of his Suspension,
We must deem him justly entitled to the remainder
of his pay and Allowances; We therefore direct, that
the obligation given by General Stuart, to refund
such money as had been advanced him, in case
it should be Disapproved by the Court, be
Cancelled, and that the remainder of his Pay
(and Allowances, from the time of his Suspension
to the day of his Acquittal by Court Martial,
be Issued to General Stuart upon the receipt of
these our Orders

Attested to be a true Copy

C. Michell Secy